

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM H. TRIPP

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) 1962, 1963 &
1964

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 10th day of May , 19 74, she served the within
Notice of Decision (or Determination) by (certified) mail upon Estate of William H.
Tripp (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Estate of William H. Tripp
Bridal Path North
Port Washington, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

10th day of May , 1974.

Jorge S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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of
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Taxes under Article(s) 23 of the
Tax Law for the Year(s) 1962, 1963 and:
1964.

State of New York
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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 10th day of May , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon John G. Dalton,
Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

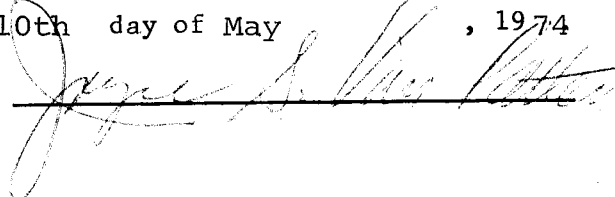

wrapper addressed as follows: John G. Dalton, Jr., Esq.
223 Main Street
Port Washington, New York

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Sworn to before me this

10th day of May , 1974



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
Mario A. Procaccino
~~XXXXXXXXXX~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 10, 1974

**Estate of William H. Tripp
Bridal Path North
Port Washington, New York**

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 722 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,


Paul S. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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| In the Matter of the Petition | : | |
| of | : | |
| WILLIAM H. TRIPP | : | |
| for Redetermination of Deficiency or | : | DECISION |
| for Refund of Unincorporated Business | : | |
| Tax under Article 23 of the Tax Law | : | |
| for the Years 1962, 1963 and 1964. | : | |
| | : | |

Petitioner, William H. Tripp, has filed a petition for redetermination of deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1962, 1963 and 1964. (File No. 24354175.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on July 12, 1972, at 1:25 P.M. Petitioner appeared by John G. Dalton, Jr., Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Albert J. Rossi, Esq., of Counsel).

ISSUE

Did petitioner, William H. Tripp's activities as a yacht designer during the years 1962, 1963 and 1964 constitute the practice of a profession?

FINDINGS OF FACT

1. Petitioner, William H. Tripp, and his wife filed New York State income tax resident returns for the years 1962, 1963 and 1964. He also filed unincorporated business tax returns for said years, but he omitted from income reported as being subject to said tax the net income derived by him from his

activities as a yacht designer during said years.

2. On September 26, 1966, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William H. Tripp, imposing unincorporated business tax in the total sum of \$1,124.92 upon the net income received by him from his activities as a boat designer and consultant during the years 1962, 1963 and 1964. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,263.69.

3. During the years 1962, 1963 and 1964 petitioner, William H. Tripp, was one of the leading yacht designers in the United States. He designed yachts for individuals and for boat manufacturing companies. The client would give him the information as to the size, type and general purpose of the proposed boat. He would design the boat, prepare the blueprints to be used by the builder and supervise the construction to insure that the specifications were met.

4. Prior to World War II, petitioner, William H. Tripp, was a draftsman for a boat designing firm known as Rhodes and Sparkman. During World War II he served as an Ensign in the United States Coast Guard. Immediately after the war he sold marine paint and started designing yachts. In 1951 he went on his own as a yacht designer. He attended Massachusetts Institute of Technology for one semester. He was a member of the Society of Naval Architects.

5. Petitioner, William H. Tripp's income as a yacht designer during the years 1962, 1963 and 1964 was derived from personal services rendered. Capital was not a material income

producing factor.

6. Petitioner, William H. Tripp, was not required to possess a license, which indicated that sufficient qualifications had been met, in order to carry on his activities as a yacht designer during the years 1962, 1963 and 1964.

7. Petitioner, William H. Tripp's activities as a yacht designer during the years 1962, 1963 and 1964 were not controlled by any industry-wide or association-wide standards of conduct, ethics or malpractice liability.

8. Petitioner, William H. Tripp's activities as a yacht designer during the years 1962, 1963 and 1964 did not require him to have a long-term educational background generally associated with a degree in an advanced field of science and learning.

CONCLUSIONS OF LAW

A. That the activities of petitioner, William H. Tripp, as a boat designer during the years 1962, 1963 and 1964, although requiring special knowledge and experience, did not constitute the practice of a profession exempt from the imposition of the unincorporated business tax in accordance with the meaning and intent of section 703(c) of the Tax Law since his said activities did not require a long-term educational background generally associated with a degree in an advanced field of science or learning, a license which indicated sufficient qualifications had been met prior to engaging in the occupation, and the control of the occupation by standards of conduct, ethics and malpractice liability.

B. That the aforesaid activities of petitioner, William H. Tripp, during the years 1962, 1963 and 1964 constituted the carrying on of an unincorporated business and his income derived therefrom was subject to the unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of William H. Tripp is denied and the Notice of Deficiency issued September 26, 1966 is sustained.

DATED: Albany, New York
May 10, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER