

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

T. MILES GRAY ASSOCIATES

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

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article ~~(x)~~ 23 of the
Tax Law for the Year(s) 1961 and 1962 :

State of New York
County of Albany

JANET MACK

, 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 7th day of January , 1976 , she served the within

Notice of Decision ~~(XXXXXXXXXXXX)~~ by (certified) mail upon T. Miles Gray Associates

~~(XXXXXXXXXXXX)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: T. Miles Gray Associates
c/o Levy & Sonet
60 East 42nd Street
New York, 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 ~~(XXXXXXXXXXXX)~~
~~(X)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(XXXXXXXXXXXX)~~ petitioner.

Sworn to before me this

7th day of January , 1976.

May L. Laff

Janet Mack

DEPARTMENT OF TAXATION AND FINANCE

To Joyce,

Better addresses.

1/7/76

JAN 7 1976

From PAUL B. COBURN

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

CERTIFIED

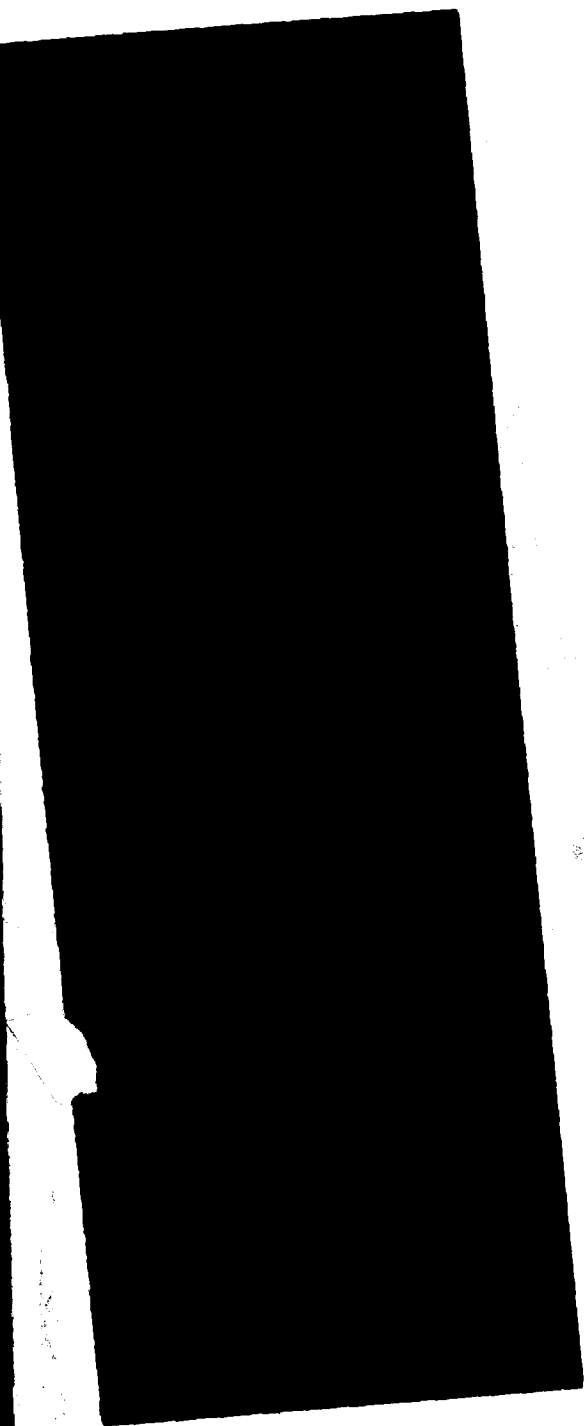
No. 4007

MAIL

T. Miles Gray, Associates

142 East 35th Street

New York, New York



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

T. MILES GRAY ASSOCIATES

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

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) 1961 and 1962.:

State of New York
County of Albany

JANET MACK, 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 22nd day of December, 1975, she served the within
Notice of Decision ~~for Determination~~ by (certified) mail upon T. Miles Gray
Associates ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

T. Miles Gray Associates
142 East 35th Street
New York, 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)~~
~~the~~ 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

22nd day of December, 1975.

Mary Hoff

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

T. MILES GRAY ASSOCIATES

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) 1961 and 1962:

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

State of New York
County of Albany

JANET MACK

, 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 22nd day of December , 1975, she served the within

Notice of Decision ~~XXX XXXXXX XXXXXX~~ by (certified) mail upon Jerrold M. Sonet, Esq.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Jerrold M. Sonet, Esq.

Levy and Sonet

60 East 42nd Street

New York, New York 10017

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

22nd day of December , 1975

Mary Hoff

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

T. MILES GRAY ASSOCIATES

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

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article ~~23~~ 23 of the
Tax Law for the Year ~~(s)~~ 1961 and 1962.:

State of New York
County of Albany

JANET MACK, 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 22nd day of December, 1975, she served the within
Notice of Decision (~~or Redetermination~~) by (certified) mail upon Jeffrey Vail, Esq.

, (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Jeffrey Vail, Esq.
Levy and Sonet, Esqs.
60 East 42nd Street
New York, New York 10017
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

22nd day of December, 1975.

Mary Groff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

JAMES H. TULLY, JR., PRESIDENT
MILTON KOERNER

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

Mr. Wright
Mr. Coburn
Mr. Leisner

(518) ~~457-3858~~
457-3858

DATED: Albany, New York
December 22, 1975

**T. Miles Gray Associates
142 East 35th Street
New York, New York**

Gentlemen:

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

Please take further notice that pursuant to
Section (s) **722** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Paul E. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
T. MILES GRAY ASSOCIATES	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Years 1961 and 1962.	:	

Petitioner, T. Miles Gray Associates, 142 East 35th Street, New York, New York, sought a redetermination of a deficiency of unincorporated business taxes under Article 23 of the Tax Law for the years 1961 and 1962.

A formal hearing was held before Alfred Rubinstein, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 15, 1968, at 3:00 P.M. (File No. 1759).

The petitioner appeared by Levy & Sonet, Esqs., (Jerrold M. Sonet, Esq. and Jeffrey Vail, Esq. of counsel).

ISSUE

Was the taxpayer engaged in an exempt professional service in which eighty percent of the unincorporated business gross income for the taxable years in question was derived from such professional service.

FINDINGS OF FACT

1. The taxpayer timely filed unincorporated business tax returns for the years 1961 and 1962.
2. On March 29, 1965, the Income Tax Bureau issued a Notice of Deficiency to the taxpayer for additional unincorporated business tax and interest for the years 1961 and 1962 in the total amount of \$1,851.52.
3. On June 25, 1965, taxpayer timely filed a petition for redetermination of deficiency for the years 1961 and 1962.
4. The taxpayer is a partnership located at 142 East 35th Street, New York, New York. It consists of two partners; T. Miles Gray and Agnes D. Gray. T. Miles Gray is a graduate of Memphis Technical High School, Memphis, Tennessee; Alliance Francaise, Paris, France; and L'Ecole Guerre Lavigne (Cours de Coup eModeliste) Paris, France. Mr. Gray also attended Le Sorbonne,

Paris, France, where he studied French civilization. Mr. Gray is a member of the American Institute of Interior Designers and the National Society of Interior Designers for which he served as National Program Director. Mrs. Agnes D. Gray is a graduate of Memphis Technical High School, Memphis, Tennessee, and the Parsons School of Design, New York, New York. Mrs. Gray is a member of the American Institute of Interior Designers, the National Society of Interior Designers, National Home Fashion League and the Fashion Group, Inc.

5. The taxpayer is engaged in providing three services; product design, product promotion, and interior environmental design. Product design involves revamping techniques of design and manufacturing process while developing new products. Product promotion encompasses devising plans for increasing the desirability and sale of particular products, including visional merchandising, supervision of photography and the presentation of sales meetings, seminars and symposiums among other things. Interior environmental design involves the development of interior spaces for the housing and showing of products.

CONCLUSIONS OF LAW

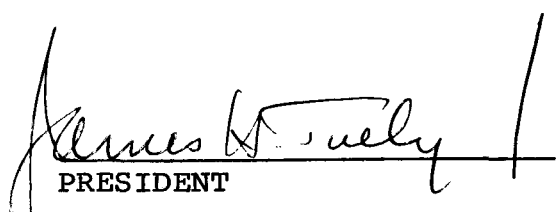
A. That the taxpayer did not derive 80% of its unincorporated income from exempt professional services pursuant to section 703(c) of the Tax Law during the years in question. Industrial design is recognized to be an exempt profession within the meaning of section 703(c) by virtue of Teague v. Graves, 261 A.D. 252, 27 N.Y.S. 2d 762, affirmed 287 N.Y. 549. The taxpayer's activities go beyond the usual definition of industrial design which looks to the development of new products and the evaluation of the product's functional fitness. The evidence clearly indicates that the taxpayer was involved in the promotional aspects of the products it developed. 20 NYCRR 203.11(g) (1) states, "...The performing of services dealing with the conduct of business itself, including the promotion of sales or services of such business and consulting services, does not constitute the practice of a profession even though the services involve the application of specialized knowledge." Such services as the supervision of advertising photography to the last detail of lighting and camera angle fall out of the ambit of industrial design.

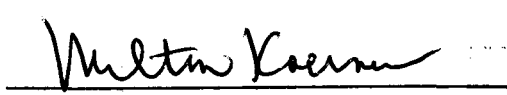
B. That the taxpayer has not presented evidence as to what percentage of its activities dealt with the service of industrial design as opposed to its promotional activities. Therefore, taxpayer has failed to establish that 80% of its unincorporated business gross income was derived from a profession pursuant to section 703(c) of the Tax Law.

C. That the petition of T. Miles Gray Associates is denied in its entirety.

DATED: Albany, New York
December 22, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER