

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
CARLISLE & JACQUELIN
(now known as Carlisle DeCoppet & Co.
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Unincorporated Business
Taxes under Article (s) 23 of the
Tax Law for the Year (s) ~~xxxxxx~~ 1966.

AFFIDAVIT OF MAILING

State of New York
County of Albany

Donna Scranton, 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 17th day of August, 1976, she served the within Notice of Decision by (certified) mail upon Carlisle & Jacquelin (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Carlisle & Jacquelin
(Carlisle DeCoppet & Co.)
2 Broadway
New York, New York 10004
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 Postal Service 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

17th day of August, 1976

Donna Scranton

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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of
CARLISLE & JACQUELIN :
(now known as Carlisle DeCoppet & Co. :
For a Redetermination of a Deficiency or :
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Hurdman & Cranstoun, Penny & Co.
140 Broadway
New York, New York 10005
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STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

August 17, 1976

TELEPHONE: (518) 457-3850

Carlisle & Jacquelin
(Carlisle DeCoppet & Co.)
2 Broadway
New York, New York 10004

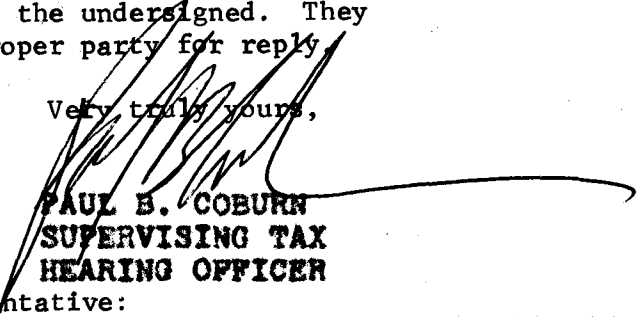
GENTLEMEN:

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.

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. They
will be referred to the proper party for reply.

Very truly yours,


PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
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CARLISLE & JACQUELIN	:	DECISION
(now known as Carlisle DeCoppet & Co.)	:	
	:	
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Year 1966.	:	
	:	

Petitioners, Nan R. Halsey, Harold W. Carhart, Charles H. Thieriat, et. al., individually and as co-partners doing business under the firm name and style of Carlisle & Jacquelin (now known as Carlisle DeCoppet & Co.), Two Broadway, New York, New York 10004, filed a petition for redetermination of a deficiency for unincorporated business taxes under Article 23 of the Tax Law for the year 1966.

Said deficiency was issued April 13, 1970, in the amount of \$10,920.00 plus interest of \$1,962.98 for a total of \$12,882.98.

A hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer, on May 19, 1972, at 9:15 A.M. The petitioner appeared by

Michael Flood and Emerson Markham of Hurdman and Cranston, Penney & Co., C.P.A.'s. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq. of counsel).

The record of said hearing has been duly examined and considered.

ISSUE

Whether the petitioner firm is taxable on the proceeds of the sale of two stock exchange seats by persons who had recently retired as general partners of the firm and who were at the time of the sale limited partners of the firm is the issue in this case.

FINDINGS OF FACT

1. The petitioner firm is engaged in the securities business and is a member firm of the New York Stock Exchange. They deal, however, not with the general public but with other member firms of the Exchange. They specialize in the purchase and sale of securities in units (odd-lots) which are smaller in size than the units (round-lots) traded on the Exchange. To do this they maintain floor brokers on the Exchange to buy and sell, in round-lots, the securities they need for their daily trading in the smaller units. The price at which they buy and sell these smaller units is regulated by the rules of the Exchange and is calculated by reference to contemporaneous sales of round-lots on the floor of the Exchange. During 1966, petitioner had about 17 partners, 11 of whom were floor brokers.

2. Two of petitioner's general partners, Mr. C. Maury Jones and Mr. L. Lee Stanton, who had been partners since 1935, retired on December 31, 1965, and became limited partners as of January 1, 1966. They became entitled under the partnership agreement to lifetime retirement benefits contingent upon their remaining as limited partners.

3. Mr. Jones had purchased his own stock exchange seat in 1929. He sold it on January 27, 1966. Mr. Stanton had purchased his seat in 1924 and he sold it on February 10, 1966.

4. The provisions of the partnership agreement with respect to stock exchange seats were as follows:

"The general partner had to contribute the use of the seat to the firm and could not dispose of the seat without approval by the firm. The proceeds of the sale of the seat were an asset of the firm insofar as necessary for the protection of creditors. The firm would pay as its own business expenses the annual dues of the Exchange, but the partner would pay certain other assessments of the Exchange including those imposed because of the death of a member."

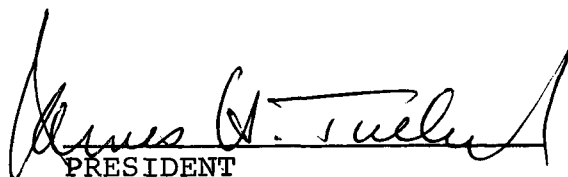
CONCLUSIONS OF LAW

A. That because at the time of the sale of the stock exchange memberships in question they were no longer used in conjunction with the business of the petitioner. Petitioner is, therefore not subject to tax on the proceeds of their sale.

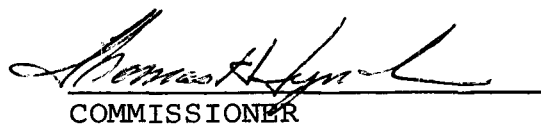
B. That the deficiency is erroneous in its entirety and cancelled.

DATED: Albany, New York
August 17, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

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~~(s) 1966~~

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Donna Scranton

Janet Mack

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DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

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ADDRESS YOUR REPLY TO

August 4, 1976

TELEPHONE: (518) ~~457-3830~~

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SUPERVISING TAX
HEARING OFFICER

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cc: Petitioner's Representative:

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5. On January 1, 1964, the market value of the seat in issue was \$197,500. On December 31, 1965, the market value was \$217,500, an increase of \$20,000 over the January 1, 1964 value.

6. The gain on the sale of the seat as stated in the deficiency notice is \$184,355.00. This is assumed to be the increase in value of the seat from the date on which Mr. Korn purchased the seat to the date of its sale on September 1, 1966.

A. That because petitioner has not carried the burden of proof that the income in question is free from tax, the sale of the stock exchange membership must be found to have occurred while the owner thereof was still a general partner in the firm and while the seat was used in firm business and therefore the firm will be treated as owner of the membership. (See Gregory & Sons, S.T.C., 6/19/72).

B. That the measure of the taxable gain under the unincorporated business tax is the same as would be reported for Federal tax purposes as required by sections 705 of the Tax Law.

C. That because of the foregoing reasons the deficiency is correct as issued and the amount thereof is due together with such interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
August 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER