

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOMERS, SCHAEFER, COLLINS & YOUNG

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) 1965

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 23rd day of August, 1976, she served the within
Notice of Decision (or Determination) by (certified) mail upon Somers, Schaefer,
Collins & Young (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Somers, Schaefer, Collins & Young
c/o Sanford Becker & Co., PC
1 East 42nd Street
New York, NY 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

23rd day of August, 1976.



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOMERS, SCHAFFER, COLLINS AND
YOUNG

AFFIDAVIT OF MAILING

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 (xxxx) ~~Period(s)~~ 1965 :

State of New York
County of Albany

Carmen M. Mottolese, 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 4th day of August, 1976, she served the within Decision by (certified) mail upon Sanford Becker, C.P.A. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Sanford Becker, C.P.A.
Sanford Becker & Co., C.P.A.'s
1 East 42nd Street
New York, NY 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 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

4th day of August, 1976

Carmen M. Mottolese

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SOMERS, SCHAFFER, COLLINS AND
YOUNG

AFFIDAVIT OF MAILING

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) ~~or Period(s)~~ 1965 :

State of New York
County of Albany

Carmen M. Mottolese, 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 4th day of August, 1976, she served the within Decision by (certified) mail upon Somers, Schaefer, Collins & Young (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Somers, Schaefer, Collins & Young
c/o Sanford Becker & Co., PC
1 East 42nd Street, New York, NY 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 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

4th day of August, 1976

Carmen M. Mottolese

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N.Y. 12227

August 4, 1976

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

Somers, Schaefer, Collins &
Young
c/o Sanford Becker & Co., PC
1 East 42nd Street
New York, NY 10017

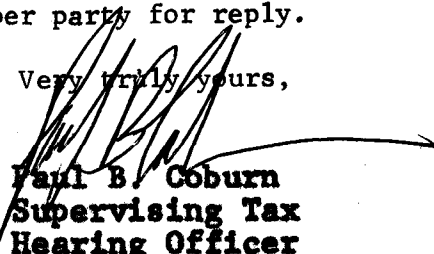
Gentlemen:

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

Please take further notice that pursuant to
Section ~~720~~ **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:

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

Bjorn Toole

111
Somers, Schaefer, Collins &
Young
1 East 42nd Street
New York, NY 10017

NEW YORK

[Handwritten scribbles]

CERTIFIED

No. 403444

MAIL

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
SOMERS, SCHAFER, COLLINS and YOUNG	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Taxes under	:	
Article 23 of the Tax Law for the Year 1965.	:	

Petitioners, Somers, Schafer, Collins and Young, filed a petition for the redetermination of a deficiency in unincorporated business tax dated February 24, 1969, under Article 23 of the Tax Law for the year 1965.

Said deficiency was asserted by notice #4218 dated February 24, 1969, and is in the amount of \$10,560.60 plus interest of \$1,810.72 for a total of \$12,370.72.

A hearing was duly held on October 14, 1971, at 9:25 A.M., at the offices of the State Tax Commission, 80 Centre Street, New York City before Nigel G. Wright, Hearing Officer. Petitioner appeared by Sanford Becker, C.P.A. The Income Tax Bureau appeared by Edward H. Best, Esq. (Francis X. Boylan, Esq. of counsel). The record of said hearing has been duly examined and considered.

ISSUE

Whether the gain from the sale of two stock exchange seats by one general partner of the firm and by one limited partner are income of petitioner, a stock brokerage firm is the issue in this case.

FINDINGS OF FACT

1. Somers, Schafer, Collins and Young is a stock brokerage firm in New York City and does business solely as a specialist for the New York Stock Exchange. The firm handled about 24 stocks. Each of the four partners had a seat on the Exchange which he had purchased himself. The partnership agreement of the firm was not submitted by the representative.

2. Mr. George W. Young had purchased his seat in 1953 and had been a member of other firms before coming to the petitioner's firm. He became a general partner of the petitioner's firm on January 1, 1963. He retired from the firm on May 31, 1965. Prior thereto on May 13, 1965, he had sold his stock exchange seat to a person not connected with the firm.

3. Arthur G. Somers had been a general partner and became a limited partner of the firm in January, 1965. On June 17, 1965, he sold his seat on the Exchange. He died shortly thereafter. Illness had prevented his use of the seat for the previous three years.

CONCLUSIONS OF LAW

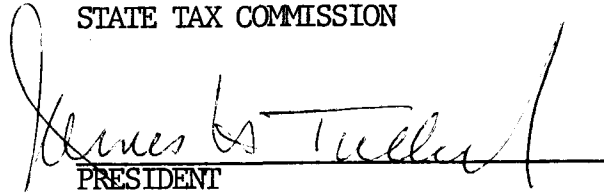
A. That the stock exchange seat owned by Mr. Young was being used in the business of the partnership at the time of its sale and, therefore, the proceeds of such sale are taxable to the partnership, the petitioner herein (see Gregory & Sons (STC 6-19-72)).

B. That the stock exchange seat owned by Mr. Somers was not being used in the business of the partnership at the time of its sale and, accordingly, petitioner is not taxable on the sale of such seat.

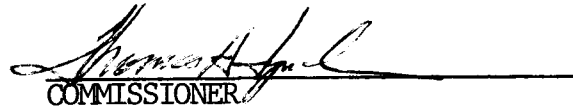
C. That because of the above reasons the deficiency in issue is erroneous in part and is recomputed to be \$6,360.00, plus interest of \$1,090.55, for a total of \$7,450.55. Said sum is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
August 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER