

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEEDS ASSOCIATES

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article ~~(x)~~ 23 of the :
Tax Law for the Year(s) ~~xxx~~ ~~xxxx~~ 1971 :
and 1972.

State of New York
County of Albany

John Huhn , 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 14th day of February , 1979 , she served the within
Notice of Decision by (certified) mail upon Leeds Associates

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Leeds Associates
35 West 53rd Street
New York, NY 10019

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

14th day of February , 1979.

Maileys J. Papineau

John Huhn



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

February 14, 1979

Leeds Associates
35 West 53rd Street
New York, NY 10019


Gentlemen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(a)~~ **722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chyrywaty
Hearing Examiner

cc: ~~Petitioner's Representative~~
~~Rebelle's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LEEDS ASSOCIATES	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Tax under Article 23 of the Tax Law for	:	
the Years 1971 and 1972.	:	

Petitioner, Leeds Associates, 35 West 53rd Street, New York, New York 10019, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1971 and 1972 (File No. 16418).

A small claims hearing was held before Philip Mercurio, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 21, 1977 at 9:15 A.M. Petitioner appeared by Harold E. Leeds. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether the activities of Harold E. Leeds and Suzanne Sekey, individually and as co-partners d/b/u the firm name and style of petitioner, Leeds Associates, as designers and consultants during 1971 and 1972, constituted the practice of a profession within the meaning and intent of section 703(c) of the Tax Law.

FINDINGS OF FACT

1. Petitioner, Leeds Associates, filed New York State partnership returns for 1971 and 1972. On said returns the partners were listed as Harold E. Leeds and Suzanne Sekey, each owning a 50% interest. Petitioner did not complete the unincorporated business tax schedules on said returns for 1971 and 1972.

2. On June 6, 1975, the Income Tax Bureau issued a Statement of Audit Changes against Harold E. Leeds and Suzanne Sekey, individually and as co-partners d/b/u the firm name and style of Leeds Associates. Said Statement imposed unincorporated business tax on the income received by the firm from the activities of the partners as designers during 1971 and 1972. In accordance with the Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency against Leeds Associates in the sum of \$2,040.33 on June 28, 1976.

3. During 1971 and 1972, Harold E. Leeds and Suzanne Sekey were interior designers and consultants. As partners of Leeds Associates, they provided interior design services in which they worked with architects and engineers in planning, designing and specifying interior finishings and furnishings.

4. Capital was not an income producing factor, and all the income received by petitioner was derived from the personal services rendered by Harold E. Leeds and Suzanne Sekey. Petitioner neither purchased nor sold any goods or equipment to its clients. All purchasing of goods or equipment was done by the client or the client's agent.

5. During the years in issue, Harold E. Leeds held a Master of Science degree in environmental design. He was also a professor of Design and the chairman of the Department of Graduate Design in Environmental Studies at Pratt Institute of Technology. Mr. Leeds also represented the United States in a European organization known as the International Federation of Interior Designers.

6. During the years in issue, Suzanne Sekey held a Master of Science degree.

7. Harold E. Leeds contended that interior design was a profession which required years of training and education.

8. Harold E. Leeds further contended that the services rendered by Leeds Associates were related to those provided by architects and engineers, in that his clients engaged the services of architects, engineers and interior designers, all of which are part of an environmental team. In addition, the core courses given

by colleges and universities in the field of architecture, engineering and interior design are common to all the aforesaid professions, before specialization in a particular field is offered.

9. There are no Federal, state or city statutes which regulate the activities or dictate the minimum educational requirements of an interior designer.

CONCLUSIONS OF LAW

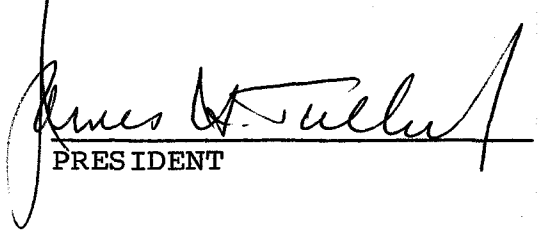
A. That the word "profession" implies attainments in professional knowledge in some department of science or learning and not mere skill and application of knowledge. Although the activities of Harold E. Leeds and Suzanne Sekey, d/b/u the trade name Leeds Associates (as interior designers and consultants) required special knowledge and skills, the application of these attributes did not constitute the practice of a profession, within the meaning and intent of section 703(c) of the Tax Law.

B. That the aforesaid activities of Harold E. Leeds and Suzanne Sekey d/b/u the trade name Leeds Associates during 1971 and 1972, constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law; thus, the income derived therefrom was subject to unincorporated business tax.

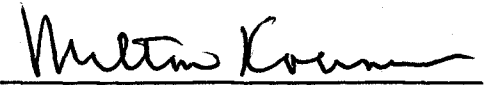
C. That the petition of Leeds Associates is denied and the Notice of Deficiency issued June 28, 1976 is sustained, together with such interest as may be lawfully owing.

DATED: Albany, New York
February 14, 1979

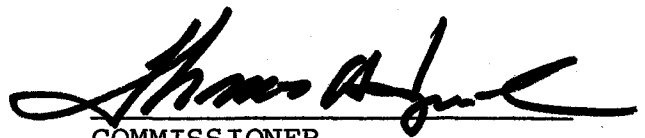
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER