

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
J. Barry Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of
Albert Will

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of
Estate of Rudolph Kerpen

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1966 - 1968.

In the Matter of the Petition :
of
Charles J. Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition
of
Raymond P. Reis, Jr.

:

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968. :

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Raymond P. Reis, Jr., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Raymond P. Reis, Jr.
39 Frazier Dr.
Greenlawn, NY 11740

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of May, 1983.

David Parchuck

James R. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
J. Barry Bocklet :

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
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In the Matter of the Petition :
of :
Albert Will :

for Redetermination of a Deficiency or a Revision :
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AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Estate of Rudolph Kerpen :

for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Charles J. Bocklet :

for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Raymond P. Reis, Jr. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Irwin M. Thrope the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Irwin M. Thrope
Sugarman & Thrope
1457 Broadway
New York, NY 10036

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
6th day of May, 1983.

David Parchuck

Annmarie A. Aggelund
AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 6, 1983

Raymond P. Reis, Jr.
39 Frazier Dr.
Greenlawn, NY 11740

Dear Mr. Reis:

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(s) 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Irwin M. Thrope
Sugarman & Thrope
1457 Broadway
New York, NY 10036

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

J. Barry Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition
of

Albert Will

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition
of

Estate of Rudolph Kerpen

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1966 - 1968.

In the Matter of the Petition
of

Charles J. Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of
Raymond P. Reis, Jr. :

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968. :

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Charles J. Bocklet, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Charles J. Bocklet
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of May, 1983.

David Parchuck

Carroll A. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
J. Barry Bocklet :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
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for the Years 1967 & 1968.

In the Matter of the Petition :
of :
Albert Will :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Estate of Rudolph Kerpen :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1966 - 1968.

In the Matter of the Petition :
of :
Charles J. Bocklet :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of :
Raymond P. Reis, Jr. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Jack Wong the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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
6th day of May, 1983.

David Parchuck

Gavin P. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 6, 1983

Charles J. Bocklet
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004

Dear Mr. Bocklet:

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(s) 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
J. Barry Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of
Albert Will

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of
Estate of Rudolph Kerpen

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1966 - 1968.

In the Matter of the Petition :
of
Charles J. Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of
Raymond P. Reis, Jr. :

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Year 1968. :

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Estate of Rudolph Kerpen, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Estate of Rudolph Kerpen
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of May, 1983.

David Parchuck

Garnie A. Hagelund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
J. Barry Bocklet :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of :
Albert Will :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Estate of Rudolph Kerpen :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1966 - 1968.

In the Matter of the Petition :
of :
Charles J. Bocklet :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of :
Raymond P. Reis, Jr. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Jack Wong the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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
6th day of May, 1983.

David Parchuck

Norman A. Hegeland

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 6, 1983

Estate of Rudolph Kerpen
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004

To the Executor:

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(s) 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
J. Barry Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
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for the Years 1967 & 1968.

In the Matter of the Petition :
of
Albert Will

for Redetermination of a Deficiency or a Revision :
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Business Tax under Article 23 of the Tax Law :
for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of
Estate of Rudolph Kerpen

for Redetermination of a Deficiency or a Revision :
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of
Charles J. Bocklet

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law :
for the Years 1967 & 1968.

In the Matter of the Petition :
of
Raymond P. Reis, Jr. :

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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Business Tax under Article 23 of the Tax Law :
for the Year 1968. :

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Albert Will, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Albert Will
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of May, 1983.

David Parchuck

Annice R. Hegelund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
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for Redetermination of a Deficiency or a Revision :
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of :
Albert Will :
for Redetermination of a Deficiency or a Revision :
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for the Year 1968.

AFFIDAVIT OF MAILING

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of :
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Charles J. Bocklet :
for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Raymond P. Reis, Jr. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law :
for the Year 1968.

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Jack Wong the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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
6th day of May, 1983.

David Parchuck

William A. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 6, 1983

Albert Will
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004

Dear Mr. Will:

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(s) 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
J. Barry Bocklet

for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of
Albert Will

for Redetermination of a Deficiency or a Revision :
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AFFIDAVIT OF MAILING

In the Matter of the Petition :
of
Estate of Rudolph Kerpen

for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of
Raymond P. Reis, Jr. :

: AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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Business Tax under Article 23 of the Tax Law :
for the Year 1968. :

State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon J. Barry Bocklet, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

J. Barry Bocklet
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of May, 1983.

David Parchuck

James P. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
J. Barry Bocklet :
for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Albert Will :
for Redetermination of a Deficiency or a Revision :
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for the Year 1968.

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Estate of Rudolph Kerpen :
for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Charles J. Bocklet :
for Redetermination of a Deficiency or a Revision :
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In the Matter of the Petition :
of :
Raymond P. Reis, Jr. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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State of New York
County of Albany

David Parchuck, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of May, 1983, he served the within notice of Decision by certified mail upon Jack Wong the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 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
6th day of May, 1983.

David Parchuck

Annunzio A. Hagelund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 6, 1983

J. Barry Bocklet
c/o Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004

Dear Mr. Bocklet:

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(s) 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Jack Wong
Oppenheim, Appel, Dixon & Co.
One New York Plaza
New York, NY 10004
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
:
of
:
J. BARRY BOCKLET
:
for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Years 1967
and 1968.
:

In the Matter of the Petition
:
of
:
ALBERT WILL
:
for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Year 1968.
:

DECISION

In the Matter of the Petition
:
of
:
ESTATE OF RUDOLPH KERPEN
:
for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Years 1966,
1967 and 1968.
:

In the Matter of the Petition
:
of
:
CHARLES J. BOCKLET
:
for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Years 1967
and 1968.
:

In the Matter of the Petition
of
RAYMOND P. REIS, JR.
for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Year 1968.

DECISION

Petitioners, J. Barry Bocklet, Albert Will, Estate of Rudolph Kerpen and Charles J. Bocklet, c/o Oppenheim, Appel, Dixon & Co., One New York Plaza, New York, New York 10004, and Raymond P. Reis, Jr., 13 Ann Street, Colts Neck, New Jersey 07722, filed petitions for redetermination of deficiencies or for refunds of unincorporated business tax under Article 23 of the Tax Law for the years 1966, 1967 and 1968, as individually specified above (File Nos. 13711, 13712, 13713, 13714 and 13715).

A consolidated small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 12, 1982 at 1:15 P.M., final date for briefs was August 12, 1982. Petitioners, J. Barry Bocklet, Albert Will, Estate of Rudolph Kerpen and Charles J. Bocklet, appeared by Jack Wong. Petitioner Raymond P. Reis, Jr. appeared with Irwin M. Thrope, CPA. The Audit Division appeared by Paul B. Coburn, Esq. (Irving Atkins, Esq., of counsel).

ISSUE

Whether the petitioners herein are subject to unincorporated business tax on the gain from the sale of a stock exchange seat.

FINDINGS OF FACT

1. During the year 1968, J. Barry Bocklet, Albert Will, Rudolph Kerpen (deceased), Charles J. Bocklet and Raymond P. Reis, Jr. (hereinafter petitioners), were securities dealers, engaged as specialists on the floor of the American Stock Exchange. Each was a participating member of the joint account of "Bocklet, Bocklet, Will, Kerpen and Reis" (the joint account).

2. The joint account timely filed a New York State Partnership Return for 1968 wherein unincorporated business tax was not computed for the entity. However, on Schedule U-D it was noted that "participants file separate UBT returns".

3. Each petitioner herein filed a separate unincorporated business tax return for 1968 whereon they reported their respective distributive shares of income from the joint account.

4. During 1968, Robert J. Fisher, also a member of the joint account, sold his membership seat on the American Stock Exchange (the seat). The gain derived from such sale of \$299,866.00 was reported in its entirety by Mr. Fisher on his 1968 unincorporated business tax return. No portion of such gain was reported by either the joint account or the petitioners herein.

5. During 1969, the joint account sustained a net operating loss of \$99,541.00. Accordingly, petitioners reported their respective shares of such loss on their individual 1969 unincorporated business tax returns. In April 1973, petitioners filed claims for refund of unincorporated business tax based on a carryback of their respective 1969 net operating losses as follows:

<u>Petitioner</u>	<u>Claim Year</u>	<u>Refund Claimed</u>
J. Barry Bocklet	1967	\$1,698.00
	1968	\$2,335.00
Albert Will	1968	\$2,291.00

Estate of Rudolph Kerpen	1966	\$ 270.00
	1967	\$ 615.00
	1968	\$1,652.00
Charles J. Bocklet	1967	\$ 456.00
	1968	\$ 627.00
Raymond P. Reis, Jr.	1968	\$1,010.00

The joint account (Bocklet, Will & Co.) also filed a "protective claim" for refund of unincorporated business tax for 1968. Under the heading "Total Amount of Tax Paid" the amount reported was \$57,947.00 with the notation "Amount Paid by Individual Participants Personally". The joint account claimed a refund of \$5,475.00.

6. On July 1, 1974, the Audit Division issued a letter to petitioners and the joint account with respect to their 1968 claims for refund, wherein it stated:

"Your claim for refund, based on a 1969 net operating loss, has been received. On audit and reconstruction of the unincorporated business taxes due by the partnership entity after allowance of the 1969 net operating loss carryback to the year 1968 and increasing partnership gain by the sale of a partnership asset, i.e. sale of a stock exchange seat by a partner, there is additional taxes due. Therefore, no refunds will be authorized to the individual partners on their individual tax returns. You will receive under separate cover a notice of disallowance based on the above computation."

Pursuant to the computation incorporated into said letter, the full 1969 joint account net operating loss of \$99,541.00 was allowed but was offset by the gain from the sale of Robert J. Fisher's seat of \$299,866.00. Additional tax due for 1968 from the joint account was computed to be \$96.88.

7. On July 8, 1974, the Audit Division issued a formal notice of disallowance to each petitioner wherein each of their aforestated respective claims for 1968 were disallowed in full based on the Audit Division's letter of July 1, 1974. The claims filed for years preceding 1968 by petitioners J. Barry Bocklet, Estate of Rudolph Kerpen and Charles J. Bocklet were disallowed in full "since

less than eighty (80) percent interest was shared by one or more partners" during such years. No formal Notice of Disallowance was put in evidence for the joint account.

8. All claims for refund filed for the years preceding 1968 were marked "This is a protective claim." and were filed solely for the purpose of protecting petitioners in the event that their 1968 claims, based on their carryback of the 1969 net operating losses to taxable year 1968, were disallowed. Since, pursuant to the Audit Division's letter of July 1, 1974, the full joint account net operating loss for 1969 was allowed for taxable year 1968, the claims for the preceeding years are no longer meaningful and accordingly, may be regarded as conceded by petitioners.

9. Petitioners argued that the gain from the sale of Robert J. Fisher's seat was erroneously considered income to the joint account and accordingly, to the individual petitioners herein.

10. Each participant in the joint account owned a seat prior to becoming a member.

11. Neither Mr. Fisher, nor any other member of the joint account, had contributed their seat as capital to the firm.

12. When Mr. Fisher sold his seat, the proceeds went directly to him. Neither the joint account, nor any member thereof, participated in the proceeds from the sale of his seat.

13. The value of the seats owned by the individual members of the joint account were not considered assets of the firm.

14. The joint account had no claims or rights to the seat at issue herein.

15. The joint account at issue was a successor to one that was established on June 1, 1945 between petitioner Charles J. Bocklet and another individual.

The original agreement contained no references to stock exchange seats. Although there were many changes to the original joint account during the intervening years, such changes related to the admission and retirement of various joint account participants. There were no additional agreements executed.

CONCLUSIONS OF LAW

A. That since the seat at issue was not an asset of the joint account, the gain from the sale of such seat is not income to either the firm or the petitioners herein. (Matter of Gaines v. Tully, 66 A.D.2d 106, aff'd. mem. op. 49 N.Y.2d 1008; Matter of Freiday and Co. v. State Tax Commission, 69 A.D.2d 944, aff'd 49 N.Y.2d 1010.) "There must be substantial evidence to support the finding that it (the seat) is an asset of the partnership." (Matter of Shearson, Hammill & Co. v. State Tax Commission, 19 A.D.2d 245, aff'd. no opn. 15 N.Y.2d 608.)

B. That the "protective" claims for refund filed by petitioners J. Barry Bocklet for 1967, Estate of Rudolph Kerpen for 1966 and 1967, and Charles J. Bocklet for 1967 are denied as conceded by petitioners.

C. That based on Finding of Fact "6" supra, the joint account is subject to the unincorporated business tax. The Audit Division is directed to recompute the refund in accordance with section 706(2)(b) of the Tax Law.

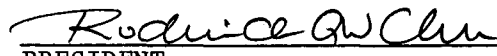
D. That the petitions of J. Barry Bocklet, Albert Will, Estate of Rudolph Kerpen, Charles J. Bocklet and Raymond P. Reis, Jr. are granted with respect to taxable year 1968, in accordance with the decision rendered herein and in all other respects denied.

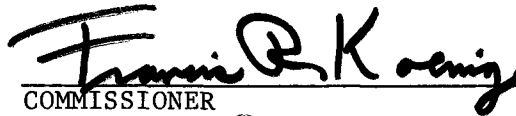
E. That the Audit Division is hereby directed to authorize such refund(s)
as may be due for 1968.


DATED: Albany, New York

MAY 06 1983

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER