

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-90(18)C  
Corporation Tax  
August 29, 1990

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C900712C

On July 12, 1990 a Petition for Advisory Opinion was received from Estate of Henry Wm. Koch, 67 Fall Street, Seneca Falls, New York 13148.

The issue raised by Petitioner, Estate of Henry Wm. Koch, is whether a New York State corporation franchise tax lien can be compromised to allow the sale of a parcel of real property which is the sole asset of a corporation dissolved by proclamation where the appraised value of the real property is less than the amount of the tax lien.

Henry Wm. Koch, who died on June 6, 1989, was the sole remaining shareholder of Finger Lakes Realty Company Incorporated. The corporation was dissolved by proclamation of the Secretary of State published on December 15, 1967 pursuant to Section 203-a of the Tax Law and such dissolution has not been annulled. A tax search by the Department of Taxation and Finance shows the corporation to owe franchise taxes for the period ended October 31, 1968 to date. The franchise tax, interest and penalties owed amount to more than \$12,347.82. The sole asset of the corporation is a vacant parcel of real property having an appraised value of \$8,000.00. The property has not been advertised for sale because the amount of the tax lien is considerably greater than the property's appraised value.

Section 171 Fifteenth of the Tax Law provides that the Commissioner of Taxation and Finance shall:

Have authority to compromise any taxes or any warrant or judgment for taxes imposed by this chapter, and the penalties and interest in connection therewith, if the tax debtor has been discharged in bankruptcy, or is shown by proofs submitted to be insolvent, but the amount payable in compromise shall in no event be less than the amount, if any, recoverable through legal proceedings, and provided that where the amount owing for taxes, penalties and interest or the warrant or judgment is more than twenty-five thousand dollars, such compromise shall be effective only when approved by a justice of the supreme court.

In the instant case the amount recoverable through legal proceedings from the corporation would be the appraised value of the real property which is \$8,000.00. Therefore the minimum amount that the tax liability of \$12,347.82 could be compromised for under Section 171 Fifteenth of the Tax Law would be \$8,000.00.

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An Offer in Compromise may be made by filing with the Tax Compliance Division at the nearest district office of the Department of Taxation and Finance forms DTF-4.1, Offer in Compromise Fully Determined Liability and form DTF-5, Statement of Financial Condition and Other Information.

DATED: August 29, 1990

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.