

Well, for a 6-month period to N.Y. lawyers this seems to have been the leading legal news. Thus there is full explanation for a total media suppression. Duplicate - don't return.



VESEY STREET LETTER

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The next issue of the
VESEY STREET LETTER
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May 1973

NEWS OF INTEREST TO THE BAR

FBI records detailing its investigation of President Kennedy's assassination for the Warren Commission may for the first time be open to public scrutiny. The United States Court of Appeals for the District of Columbia Circuit has ruled that the Justice Department can no longer prevent disclosure under the Freedom of Information Act's exemption of "investigatory files compiled for law enforcement purposes."

The court declined to interpret the exemption as a conferment of immunity, *ipso facto*, to all investigatory files. Noting that there are presently no civil or criminal actions pending which relate to the Kennedy assassination, the court held that the withholding agency, in order to bar disclosure, must demonstrate that the information sought would impair law enforcement efficiency in some tangible way. [*Weisberg v. U.S. Dept. of Justice*, 41 U.S.L.W. 2470 (2/28/73).]

☆☆☆

A unanimous New York State Court of Appeals, in an opinion by Chief Judge Stanley H. Fuld, has rejected various due process and equal protection attacks on New York City's Unincorporated Business Tax on self-employed professional incomes, holding that Local Law No. 36, of 1971, "is in all respects valid and constitutional."

The court, briefly disposing of the due process claim, stated that the clause does not avail against the taxing statute; it is not so arbitrary as to compel the conclusion that it constitutes "the

greatest freedom of classification in the area of taxation. The classification of income according to its source (here, earned income as against profits) is not uncommon, and is employed extensively in federal taxation. Further, the classification may not be said to be arbitrary since the classes are not similarly situated functionally or vis-à-vis their respective needs for governmental services. In sum, the opinion incorporates the language of the United States Supreme Court [*Salomon v. State Tax Comm.*, 278 U.S. 484, 491-92.]: "The fact that a better taxing system might be conceived... does not render the law invalid... [M]inor inequalities and hardships are incidents of every system of taxation." [*Shapiro v. The City of New York*, N.Y.L.J. (3/26/73) at 1, col. 6.]

☆☆☆

A majority of the Tax Court has approved a scheme whereby a taxpayer was able to obtain a large depreciable interest in valuable property without any capital investment and without incurring any personal liability. The taxpayer formed a shell corporation which purchased desirable properties with funds obtained from the sale of its own notes secured by no-personal-liability mortgages. The corporation leased the buildings (sometimes back to the seller) at rentals equal to 100% of the financing charges. The lessee made payments directly to the mortgagee in satisfaction of the notes. The corporation then conveyed title to the taxpayer and other shareholders who purchased the property.

May 15, 1973

Dear Harold,

As I was going
to throw this out, it occurred
to me you might find some
use for this extra copy.
So here it is.

Good luck to you &
Bill and let's make sure
we see each other next
time we are in each other's
vicinity.

Give my love to Bob &
tell her Nancy & Freda
send their love

Sincerely
Bob