

STATE OF NEW YORK  
STATE TAX COMMISSION

*Bond, Paterson  
Pers. Inc.  
1970*

In the Matter of the Petition

of

PATERSON & GWEN BOND

For a Redetermination of a Deficiency or  
a Refund of Personal Income Taxes :  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1962 & 1963 :

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Claire A. Draves , 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 20th day of November , 1970 , she served the within Notice of Decision (or Determination) by (certified) mail upon Howard Aldrich Rumpf (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Howard Aldrich Rumpf  
500 Old Country Road  
Garden City, New York

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

20th day of November , 1970

*James Wright*

*Claire A. Draves*

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

Paterson & Gwen Bond

For a Redetermination of a Deficiency or  
a Refund of Personal Income Taxes :  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1962 & 1963 :

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AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Claire A. Draves , 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 20th day of November , 1970 , she served the within Notice of Decision (or Determination) by (certified) mail upon ~~Paterson~~<sup>PATERSON</sup> & Gwen Bond (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Paterson & Gwen Bond  
Ridge Park & Spring Run  
Martinsville, New Jersey

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

20th day of November , 1970

Janet Wright

Claire A. Draves

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition

of

PATERSON & GWEN BOND

DECISION

for a Redetermination of a Deficiency  
or for Refund of Personal Income Taxes  
under Article 22 of the Tax Law for the  
years 1962 and 1963

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The taxpayers having filed a petition pursuant to Section 689 of the Tax Law for the redetermination of deficiencies asserted under date of March 28, 1966, and April 14, 1967, of Personal Income Taxes due under Article 22 of the Tax Law for the years 1962 and 1963 respectively and a hearing having been duly held before Nigel G. Wright, Hearing Officer, and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The issues in this case are whether the salary income received by the taxpayer, a non-resident, is totally allocable to New York and whether certain other sums received by the taxpayer were received as salary or as a distribution of profits from a partnership.

2. The deficiencies asserted are in the amounts of \$1983.08 for 1962 and \$1701.81 for 1963, each with interest.

3. Taxpayer was a resident of New Jersey during the entire taxable year.

4. Taxpayer was the co-manager of the Plainfield, New Jersey, office of Orvis Brothers & Co., a stock brokerage firm with principal offices in New York.

5. Taxpayer reported on his Federal returns an amount received from Orvis Brothers as salary and a larger amount which he reported as other income from the partnership.

6. On his New York return taxpayer allocated both the salary and the "other income" to New York on the basis of the ratio of the days he worked to the total days he worked during the year. Such ratio was 5%.

7. The notice of deficiency for 1962 allocated to New York all of the salary income and a portion of the "other income" computed according to the partnership's allocation percentage. The notice of deficiency for 1963 does not change the taxpayer's allocation of salary income but does allocate to New York a portion of "other income" computed according to the partnership allocation percentage.

8. Taxpayer's salary was calculated by Orvis Brothers at between 35 and 50 percent of net commissions credited to him. He received a quarterly bonus dependent upon the production of newly hired registered representatives working under his supervision. This arrangement had been in effect for some years prior to the taxable years in question.

9. In 1962 it was proposed that it would enhance the reputation of the Plainfield office if taxpayer became a partner. Taxpayer made a capital contribution of \$40,000 and received a participation in profits of 1% and a participation in losses of slightly more than 1%. He was listed in the articles of partnership as a general partner.

10. Orvis Brothers had a New York allocation ratio of 73.41 percent in 1962 and 74.42 percent in 1963.

Upon the foregoing findings and all the evidence in the case,  
The State Tax Commission hereby

DECIDES:

A. The salary of taxpayer is allocable to New York according to the days worked inside and outside of New York (Reg. 20 NYCRR 131.16). The taxpayer admits such ratio was 5%.

B. The taxpayer is a partner in Orvis Brothers. The amount, other than salary, received by him from Orvis Brothers is a distribution of partnership profits. Such amount is allocable to New York on the basis of the partnership's allocation ratio (Reg. 20 NYCRR 134.2(c)).

C. The taxpayer's request as authorized by Reg. 20 NYCRR 134.4 for an alternate method of allocating the distribution from the partnership is denied.

D. The deficiency for 1962 is erroneous in part and is valid in part and is redetermined to be \$1060.12; the deficiency for 1963 is affirmed in its entirety; both such amounts shall be with such interest, if any, as may be due pursuant to Section 684 of the Tax Law.

DATED: Albany, New York  
November 18, 1970

STATE TAX COMMISSION

Norman Gallison  
COMMISSIONER

Bruce Manley  
COMMISSIONER

Milton Koene  
COMMISSIONER