

personal income Tax
 22 SECS. *61v*
 Subchapter S
 Corporation Income -
 Taxable to Stockholder.

STATE OF NEW YORK

STATE TAX COMMISSION

CROSS REF.

1.R.C. Subchapter S

CASE LAW CITATIONS

IN THE MATTER OF THE APPLICATION OF

CHARLES AND JOANN SENZEL

DECISIONS

PETITION FOR A REDETERMINATION OF A
 DEFICIENCY OR FOR REFUND OF PERSONAL
 INCOME TAXES UNDER ARTICLE 22 OF THE
 TAX LAW FOR THE YEAR 1960

Taxpayers Charles Senzel and Joann Senzel, having duly filed a petition for a redetermination of a deficiency of personal income taxes for the year 1960 (File No. 6649470) and a hearing having been held in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York, New York, before Frank M. DeBellis, Hearing Officer of the Department of Taxation and Finance on November 24, 1965, at which hearing the taxpayer Charles Senzel appeared personally, and at which taxpayers were represented by Jerome J. Kahan, Esq., and testimony having been taken and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers at all times relevant herein were and are residents of the State of New York, and that for the taxable year 1960 they filed a joint New York resident income tax return;

(2) That during the taxable year 1960, the taxpayer Charles Senzel owned 50% of the shares of Store-Craft, Inc., a corporation which had elected to be taxed as a small business (subchapter S) corporation for the year 1960, under the provisions of the United States Internal Revenue Code;

(3) That Charles Senzel's share of undistributed taxable income of Store-Craft, Inc. for the year 1960 was \$14,688.52;

(4) That such undistributed taxable income was includable in taxpayer's Federal adjusted gross income for the year 1960;

(5) That in computing their 1960 New York adjusted gross income, taxpayers modified Federal adjusted gross income by excluding undistributed taxable income from the subchapter S corporation;

(6) That section 612 of the Tax Law, in part, defines New York adjusted gross income of a resident as "his federal adjusted gross income as defined in the laws of the United States for the taxable year," and, in part, sets forth modifications to adjusted gross income as so ascertained;

(7) That section 612 of the Tax Law does not include any modification to Federal adjusted gross income for subchapter S undistributed taxable income;

(8) That on April 13, 1964 the Department of Taxation and Finance issued a Statement of Audit Changes adding the aforementioned subchapter S income as additional income subject to tax, and issued a notice of deficiency in accordance therewith.

Based upon the foregoing findings, the State Tax Commission hereby

DECIDES:

(A) That the taxpayer, Charles Senzel's share of undistributed income from Store-Craft Inc., in the sum of \$14,688.52 for the year 1960, was includable without modification, in his New York adjusted gross income for said year, and therefore taxable in accordance with section 612, Article 22 of the Tax Law.

(B) That the audit changes and notice of deficiency issued for the year 1960 are correct and are hereby sustained; that the deficiency issued does not contain any tax or other charges which could not have been lawfully demanded, and that the taxpayers' petition for a redetermination of a deficiency of personal income taxes for the year 1960 be and the same is hereby denied.

DATED: Albany, New York On the 15th day of July 1969.

STATE TAX COMMISSION

Norman Gallman
Commissioner

Barry M. Neale
Commissioner

William Koenig
Commissioner