

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LAWRENCE A. & JEANETTE S. WILSON

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1967 & 1968.:

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

State of New York
County of Albany

Martha Funaro, 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 8th day of March, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Mr. & Mrs.

Lawrence A. Wilson (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

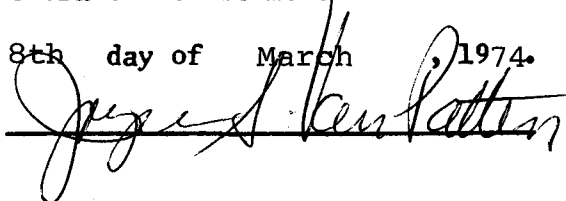
Mr. & Mrs. Lawrence A. Wilson
c/o Miles D. Wilson - The Philadelphian
Parkway & East River Drive, Apt. 14A9
Philadelphia, Pennsylvania 19130

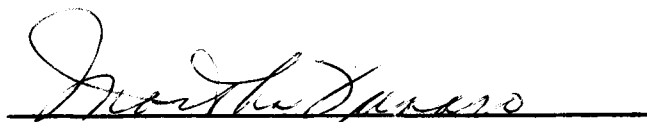
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

8th day of March, 1974.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

~~ROMANUS K. KOLMAN~~
Mario A. Procaccino
PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 8, 1974

Mr. & Mrs. Lawrence A. Wilson
c/o Miles D. Wilson
Parkway & East River Drive
Apt. 14A9 - The Philadelphian
Philadelphia, Pennsylvania 19130

Dear Mr. & Mrs. Wilson:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 690** of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
LAWRENCE A. and JEANETTE S. WILSON	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1967 and 1968.	:	
	:	
	:	

Lawrence A. and Jeanette S. Wilson, filed a petition under section 689 of the Tax Law for a redetermination of a deficiency issued under date of May 25, 1970, in the amount of \$1,682.17 plus interest of \$186.27 for a total of \$1,868.44 for personal income taxes under Article 22 of the Tax Law for the years 1967 and 1968.

A hearing was held on June 15, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioner was not represented. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether certain sums received by the petitioner from a partnership are amounts received for the sale of a partnership interest and nontaxable to a nonresident

of New York or whether they represent a distribution of partnership profits paid to a retired partner which are taxable to a nonresident according to the source from which the partnership derives its income.

FINDINGS OF FACT

1. Petitioner is a certified public accountant. Prior to 1966 he was the senior partner in the firm of Shanhold, Wilson & Company at 16 Court Street in Brooklyn.

2. In 1966, Mr. Wilson and the other partners had disputes concerning firm matters which led to Mr. Wilson's decision to sever his connection with the firm.

3. An agreement was entered into on June 30, 1966, which stated, in part, that Mr. Wilson "will retire from the partnership..." Also included was a covenant not to compete.

4. Mr. Wilson was to receive his proportionate share of the cash account and of receivables. The share of the receivables was commuted to a fixed amount payable in weekly installments. Mr. Wilson would be liable for his proportionate share of any legal liabilities arising from the firm's practice prior to his retirement. In addition, Mr. Wilson was to receive for four years: \$300.00 a week during the first year, \$150.00 a week during the second year and \$75.00 during the third and fourth year. The payments would cease on Mr. Wilson's death if his beneficiary received payments under the firm's group life insurance policy.

The remaining partners would pay all or part of the premiums for Mr. Wilson's group life insurance policy for about four years and group medical insurance for about three years. The name of the firm was changed by dropping Mr. Wilson's name. The agreement further stated "The partnership income tax returns will continue to show [Mr. Wilson] as a partner and he is to be charged with the amounts drawn as his share of the income of the partnership".

5. Mr. Wilson received \$21,811.69 in 1967 and \$13,100.00 in 1968. This was received by checks from the partnership.

6. Mr. Wilson changed his residence from New York to Pennsylvania on June 30, 1966.

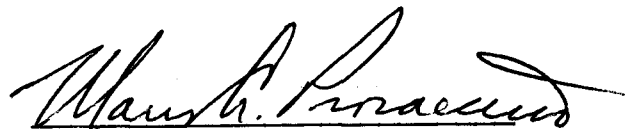
CONCLUSIONS OF LAW

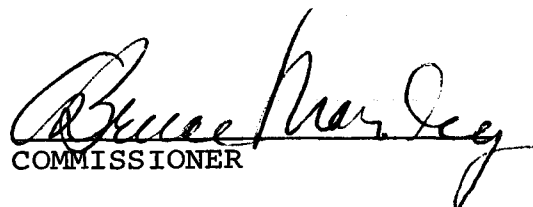
Petitioner received a liquidating distribution of partnership profits. The controlling factor in this decision must be the agreement between the partners (see John E. Boland 1972 U.S. Tax Court memo No. 233).


The deficiency is correct and is due together with such additional interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
March 8, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER