

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
George Bryan :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income & UBT :
under Article 22 & 23 of the Tax Law :
for the Year 1972. :

State of New York
County of Albany

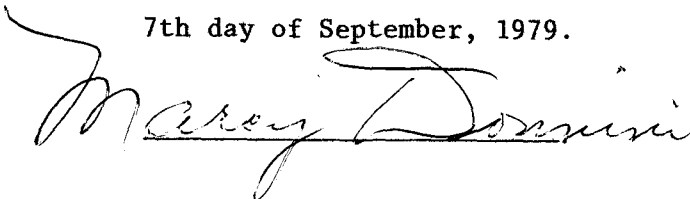
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon George Bryan, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

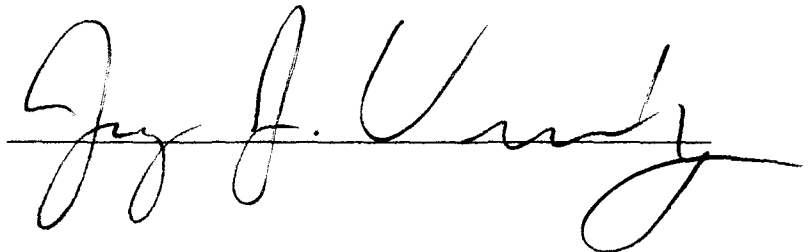
George Bryan
440 West End Ave.
New York, NY 10024

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
7th day of September, 1979.


Mary Dominici


Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
George Bryan :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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Personal Income & UBT :
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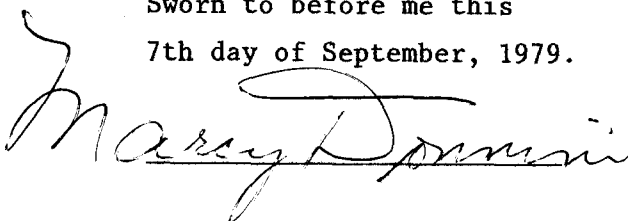
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of September, 1979, he served the within notice of Decision by certified mail upon Alfred Weintraub the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

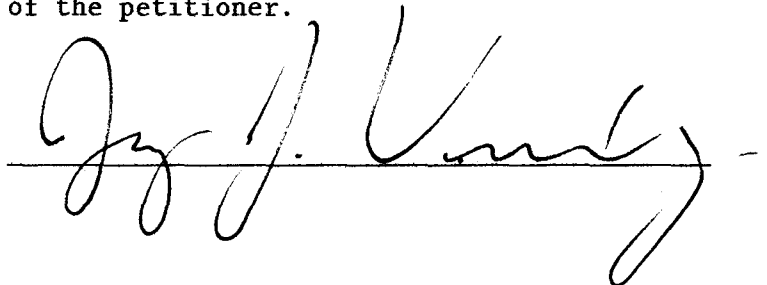
Mr. Alfred Weintraub
595 Madison Ave.
New York, NY 10022

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the 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
7th day of September, 1979.


Mary Dominici


Jay Vredenburg



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

STATE TAX COMMISSION
JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 7, 1979

George Bryan
440 West End Ave.
New York, NY 10024

Dear Mr. Bryan:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 & 722 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative
Alfred Weintraub
595 Madison Ave.
New York, NY 10022
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
GEORGE BRYAN : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income and :
Unincorporated Business Taxes under :
Articles 22 and 23 of the Tax Law :
for the Year 1972. :

Petitioner, George Bryan, 440 West End Avenue, New York, New York 10024, filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the year 1972 (File No. 14272).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 23, 1978 at 10:45 A.M. Petitioner appeared by Alfred Weintraub, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Bruce Zalaman, Esq., of counsel).

ISSUES

I. Whether petitioner's activities as a non-medical psychoanalyst constituted the practice of a profession, exempt from the imposition of unincorporated business tax.

II. Whether the Income Tax Bureau properly adjusted petitioner's interest expense deduction.

FINDINGS OF FACT

1. Petitioner, George Bryan, timely filed a New York State Income Tax Resident Return (Form IT-201) for 1972, but did not file an unincorporated business tax return for said year.

2. On January 26, 1976, the Income Tax Bureau issued a Notice of Deficiency against petitioner, asserting personal income tax of \$45.82, unincorporated business tax of \$642.84 and interest of \$143.77, for a total of \$832.43. The Notice was issued on the grounds that a) interest expense was not fully documented, b) New York City unincorporated business tax was not allowable as a deduction on petitioner's personal income tax return and c) petitioner was subject to unincorporated business tax. Petitioner did not contest the disallowance of the New York City unincorporated business tax deduction.

3. Petitioner, George Bryan, received his Ph.D. in economics in 1935 from the University of Wisconsin. In 1954 he obtained a Professional Diploma in Counseling from Columbia University, which represented 60 credit hours (going beyond the credit requirements for a Master's degree).

4. Petitioner was licensed in New Jersey as a psychologist; however, he did not hold himself out to the public as such, nor did he practice psychology.

5. Petitioner specialized in the practice of psychoanalysis, and his activities were similar to those of a physician in the same field.

6. Petitioner attended classes at the National Psychological Association for Psychoanalysis, Inc. (hereinafter "NPAP") in New York City from 1954 to 1959. Upon completion of these classes in 1960, he became a member of said association on a full-time basis.

7. In 1963 petitioner became a member of the New York Society of Freudian Psychologists, and later became chairman of its training committee. Since 1970 he has been on the supervisory staff of the Community Guidance Service, supervising the handling of cases by less-experienced psychoanalysts. Petitioner was also a member of the American Psychological Association and was certified by the National Accreditation Association for Psychoanalysis.

8. Formal training in psychoanalysis for non-physicians began in this country in approximately 1948, with the founding (by Dr. Theodore Reik) of the National Psychological Association for Psychoanalysis, Inc. and of the Postgraduate Center for Psychotherapy, both located in New York City. At present the council of Psychoanalytic Psychotherapists, Inc., also of New York City, has set standards for non-medical analysts, as have other psychoanalytic organizations and institutes. There are about forty such institutes in New York State. There are three institutes attached to university centers, but no academic degree is granted to their graduates. The educational standards established by the Council mandate prior qualification as a psychiatrist, clinical psychologist or psychiatric social worker.

9. Enrollment at NPAP requires a college degree and a graduate university degree in a field of human relations. Training there requires the completion of at least 30 lecture courses, each of which lasts at least 16 hours.

10. There is no academic degree given for psychoanalysis in the United States.

11. The terms "psychoanalysis" and "psychoanalyst" are not restricted by law. Anyone can identify himself with these terms.

12. Some psychoanalysts without medical training have achieved great public prominence through their writings. Among these are Erik Erikson, Rollo May, Erik Fromm, Carl Rogers, Robert Tender and Bruno Betelheim. Many others have achieved great prominence among those working in human relations and medicine. These include Anna Freud (the daughter of Sigmund Freud), Otto Rank, Theodore Reik, Ernest Kris and David Rappaport.

13. Petitioner, George Bryan, submitted no documentary evidence to substantiate the portion of interest expense that was disallowed.

CONCLUSIONS OF LAW

A. That the activities of petitioner, George Bryan, as a non-medical psychoanalyst during 1972 constituted the practice of a profession, in accordance with the meaning and intent of section 703(c) of the Tax Law. (See Matter of Ernestine R. Haight, State Tax Commission Decision dated April 15, 1976).

B. That the adjustments made for interest expense and the modification for New York City unincorporated business tax are sustained.

C. That the petition of George Bryan is granted to the extent provided in Conclusion of Law "A", supra; that the Income Tax Bureau is hereby directed to modify the Notice of Deficiency issued January 26, 1976 and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

SEP 7 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER