

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Edward F. & Joan V. A. Johnson :

for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of  
Personal Income Tax :  
under Article 22 of the Tax Law  
for the Years 1961 - 1964. :

AFFIDAVIT OF MAILING

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 14th day of November, 1980, he served the within notice of Decision by certified mail upon Edward F. & Joan V. A. Johnson, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

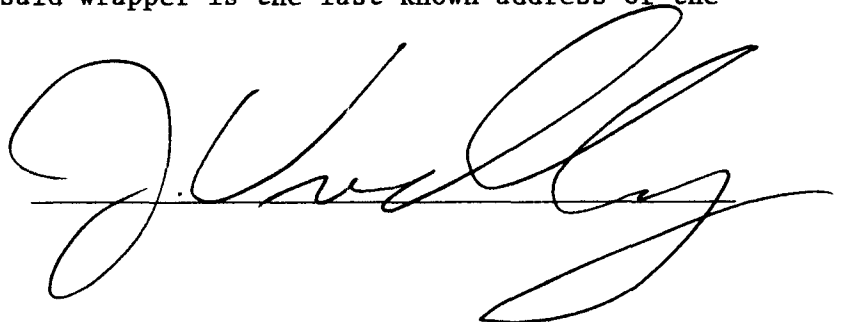
Edward F. & Joan V. A. Johnson  
241 Chestnut St.  
Englewood, NJ 07631

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  
14th day of November, 1980.

Deborah A Bank



STATE OF NEW YORK  
STATE TAX COMMISSION

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of

Edward F. & Joan V. A. Johnson :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

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Personal Income Tax :

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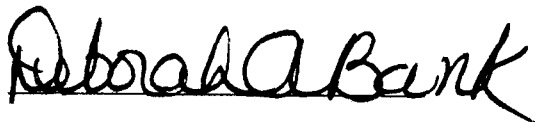
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of November, 1980, he served the within notice of Decision by certified mail upon E. E. Finucan the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

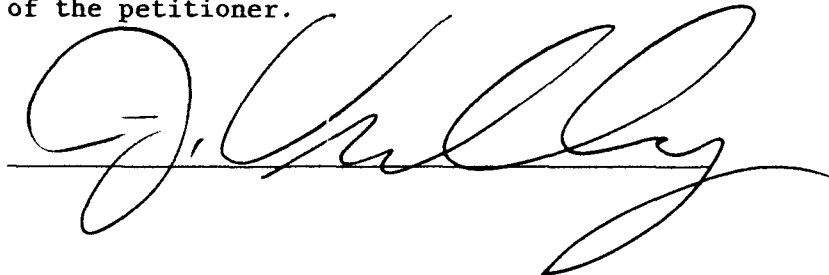
Mr. E. E. Finucan  
Finucan & Greenwood  
10 E. 40th St.  
New York, NY 10016

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  
14th day of November, 1980.

  
Deborah A. Bank



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

November 14, 1980

Edward F. & Joan V. A. Johnson  
241 Chestnut St.  
Englewood, NJ 07631

Dear Mr. & Mrs. Johnson:

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 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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
E. E. Finucan  
Finucan & Greenwood  
10 E. 40th St.  
New York, NY 10016  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
EDWARD F. JOHNSON and JOAN V. A. JOHNSON	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1961 through 1964.	:	

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Petitioners, Edward F. Johnson and Joan V. A. Johnson, 241 Chestnut Street, Englewood, New Jersey 07631, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1961 through 1964 (File No. 01774).

A formal hearing was held before Nigel Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 17, 1975 at 1:20 P.M. and continued on August 5, 1976 at 9:15 A.M. The hearing was continued to conclusion before Edward L. Johnson, Hearing Officer, on June 24, 1977 at 12:40 P.M. Petitioners appeared by E. E. Finucan, CPA. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner Edward F. Johnson, a member partner of Van Alstyne, Noel & Co., properly allocated his distributive share of partnership income.

FINDINGS OF FACT

1. Petitioners, Edward F. Johnson and Joan V. A. Johnson, filed joint New York State income tax nonresident returns for 1961 through 1964, wherein petitioner Edward F. Johnson reported his distributive share of partnership income received from Van Alstyne, Noel & Co.

2. Petitioner, Edward F. Johnson, signed consents fixing period of limitation upon assessment of personal income and unincorporated business taxes, which consents extended the period for assessment of personal income tax for 1961 through 1965, until April 15, 1974.

3. On November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency against petitioners for 1961 through 1964, asserting personal income tax of \$2,601.00, plus interest of \$1,566.32, for a total sum of \$4,167.32. Said notice was issued as a result of a New York field audit of the partnership Van Alstyne, Noel & Co. wherein adjustments were made to the partnership allocation percentage which resulted in personal income taxes due from nonresident partners. The Internal Revenue Service also made adjustments to the Federal partnership returns of Van Alstyne, Noel & Co. and to petitioners' U.S. Individual Income Tax Returns for 1961 and 1962.

CONCLUSIONS OF LAW

A. That the Audit Division is hereby directed to recompute Edward F. Johnson's proportionate share of partnership income from Van Alstyne, Noel & Co. in a manner consistent with the State Tax Commission decision in the Matter of the Petition of Van Alstyne, Noel & Co., signed on this date.

B. That the Audit Division is directed to modify the Notice of Deficiency issued on November 26, 1973 to the extent indicated in Conclusion of Law "A", supra; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York

NOV 14 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER