

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
William T. Murphy :

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 1966 - 1969. :

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 William T. Murphy, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

William T. Murphy
436 E. Market St.
Long Beach, NY 11561

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.

Dorothy A. Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of

William T. Murphy :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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Personal Income Tax :
under Article 22 of the Tax Law
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State of New York
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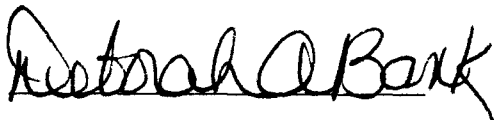
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of November, 1980, he served the within notice of Decision by certified mail upon E. E. Finucan the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

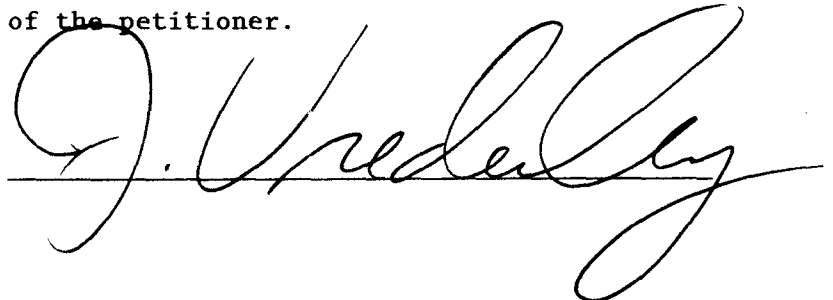
Mr. E. E. Finucan
Finucan & Greenwood
10 E. 40th St.
New York, NY 10016

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.


Notary Public



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

November 14, 1980

William T. Murphy
436 E. Market St.
Long Beach, NY 11561

Dear Mr. Murphy:

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

In the Matter of the Petition :
of :
WILLIAM T. MURPHY : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Years :
1966 through 1969.

Petitioner, William T. Murphy, 436 East Market Street, Long Beach, New York 11561, 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 1966 through 1969 (File No. 01773).

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 was required to add to Federal adjusted gross income his share of the New York City unincorporated business tax deduction taken on the partnership return of Van Alstyne, Noel & Co.

FINDINGS OF FACT

1. Petitioner, William T. Murphy, filed New York State income tax resident returns for 1966 through 1969, wherein he reported his distributive share of partnership income received from Van Alstyne, Noel & Co.

2. Petitioner 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 1962 through 1969 until April 15, 1974.

3. On November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency for 1966 through 1969 asserting personal income tax of \$310.00, plus penalty, pursuant to section 685(c) of the Tax Law, for 1968 of \$38.00, plus interest of \$84.07, for a total sum of \$432.07. Said notice was issued on the ground that petitioner did not add to his Federal adjusted gross income, his share of the New York City unincorporated business tax deduction taken on the partnership return of Van Alstyne, Noel & Co.

4. Petitioner filed a "Notice of Change in Taxable Income by United States Treasury Department Pursuant to Section 659 of the New York State Tax Law" for 1966 and 1967 and paid additional taxes due.

CONCLUSIONS OF LAW

A. That the New York City unincorporated business tax is an income tax within the meaning and intent of Chapter 46, Title S of the Administrative Code for the City of New York. Therefore, petitioner William T. Murphy was required to add to his Federal adjusted gross income his share of the New York City unincorporated business tax within the meaning and intent of section 612(b) (3) of the Tax Law.

B. That the petition of William T. Murphy is denied and the Notice of Deficiency issued on November 26, 1973 is sustained.

DATED: Albany, New York

NOV 14 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER