

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Richard J. Taylor :

AFFIDAVIT OF MAILING

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 1971, 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 20th day of June, 1980, he served the within notice of Decision by certified mail upon Richard J. Taylor, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

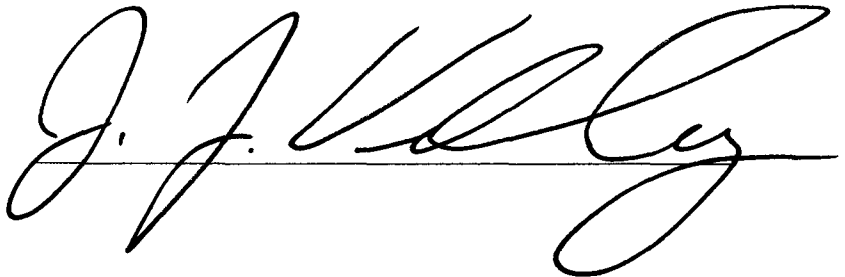
Richard J. Taylor
11 Hillcrest Ave.
Port Chester, NY 10573

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
20th day of June, 1980.

Joanne Knapp



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

June 20, 1980

Richard J. Taylor
11 Hillcrest Ave.
Port Chester, NY 10573

Dear Mr. Taylor:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
RICHARD J. TAYLOR	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1971 and 1972.	:	

Petitioner, Richard J. Taylor, 11 Hillcrest Avenue, Port Chester, New York 10573, 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 1971 and 1972 (File No. 16122).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 16, 1980 at 1:15 P.M. Petitioner appeared pro se. The Audit Division appeared by Ralph Vecchio, Esq. (I.A. Levy, Esq., of counsel).

ISSUE

Whether the New York City unincorporated business tax is an "income tax", which must be added to Federal adjusted gross income in determining New York adjusted gross income.

FINDINGS OF FACT

1. Petitioner, Richard J. Taylor, filed New York State income tax resident returns for the years 1971 and 1972 on which Federal adjusted gross income was reported without any addition or subtraction modifications as stated in section 612 of the Tax Law.

2. Petitioner is an attorney and a member of the partnership of Gasser and Hayes. The Federal partnership returns of this firm deducted, as an

expense item, New York City unincorporated business taxes paid during the years 1971 and 1972.

3. On March 31, 1975, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$682.41, along with a Statement of Audit Changes, explaining:

"In computing total income, you failed to increase income in the amount of \$2,000.00 for both 1971 and 1972 which represents your shares of the New York City unincorporated business tax taken on the partnership returns of "Gasser & Hayes"."

4. Petitioner contended that the New York City unincorporated business tax is not an "income tax", and accordingly does not have to be added to Federal adjusted gross income.

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.

B. That the amounts of \$2,000.00 for the year 1971 and \$2,000.00 for the year 1972, representing petitioner's distributive share of New York City unincorporated business tax deductions taken on the partnership returns of Gasser and Hayes, must be added to Federal adjusted gross income, in determining New York adjusted gross income for the respective years, in accordance with the meaning and intent of sections 617 and 612(b)(3) of the Tax Law.

C. That the petition of Richard J. Taylor is denied and the Notice of Deficiency issued March 31, 1975 is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York

JUN 20 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER