

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Leslie & Dorothy Clarke :
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 :
1970 & 1971. :

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 9th day of October, 1981, he served the within notice of Decision by certified mail upon Leslie & Dorothy Clarke, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Leslie & Dorothy Clarke
424 S. Maple Ave.
Basking Ridge, NJ 07920

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
9th day of October, 1981.

Carrie A. Hagelund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Leslie & Dorothy Clarke :
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 :
1970 & 1971.

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 9th day of October, 1981, he served the within notice of Decision by certified mail upon Irving L. Baumwald the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Irving L. Baumwald
Elmer Fox, Westheimer & Co.
500 Fifth Avenue
New York, NY 10036

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
9th day of October, 1981.

Cornie A. Hagelund

J. Vredenburg

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

October 9, 1981

Leslie & Dorothy Clarke
424 S. Maple Ave.
Basking Ridge, NJ 07920

Dear Mr. & Mrs. Clarke:

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
Irving L. Baumwald
Elmer Fox, Westheimer & Co.
500 Fifth Avenue
New York, NY 10036
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LESLIE CLARKE and DOROTHY CLARKE	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Years 1970 and 1971.	:	

Petitioners, Leslie Clarke and Dorothy Clarke, 424 South Maple Avenue, Basking Ridge, New Jersey 07920, 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 1970 and 1971 (File No. 01275).

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 16, 1976 at 10:45 A.M. and continued to conclusion on May 19, 1977 at 9:50 A.M. Petitioners appeared by Irving L. Baumwald, CPA. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner Leslie Clarke properly allocated his distributive share of partnership income from New York sources.

FINDINGS OF FACT

1. Petitioners, Leslie Clarke and Dorothy Clarke, filed New York State income tax nonresident returns for 1970 and 1971 in which they reported petitioner Leslie Clarke's share of partnership income from Hunter Walton & Co.

2. On January 29, 1973, the Audit Division issued a Notice of Deficiency against petitioners asserting a net personal income tax due of \$971.25 and interest of \$48.50 for a total sum of \$1,019.75. Said Notice was based on an

audit of the partnership Hunter Walton & Co. which resulted in additional income to petitioner Leslie Clarke.

CONCLUSIONS OF LAW

A. That petitioner Leslie Clarke's proportionate share of partnership income for 1970 and 1971, from the partnership Hunter Walton & Co., (as determined in the State Tax Commission decision in the Matter of the Petition of Hunter Walton & Co., signed this date) was incorrectly recomputed by the Audit Division.

B. That the petition of Leslie Clarke and Dorothy Clarke for 1970 and 1971 is granted and the Notice of Deficiency issued on January 29, 1973 is cancelled.

DATED: Albany, New York

OCT 09 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER