

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
J. Hunter & Jean Walton :  
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 :  
1968 - 1971. :

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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 J. Hunter & Jean Walton, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

J. Hunter & Jean Walton  
70 Plymouth St.  
Montclair, NJ

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.

*Arnie A. Hageland*

*J. Vredenburg*

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
J. Hunter & Jean Walton :  
AFFIDAVIT OF MAILING  
for Redetermination of a Deficiency or a Revision :  
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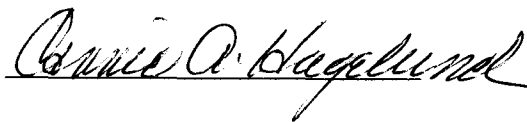
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of October, 1981, he served the within notice of Decision by certified mail upon Irving L. Baumwald the representative of the petitioner in 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.

  
Carrie A. Haglund



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

October 9, 1981

J. Hunter & Jean Walton  
70 Plymouth St.  
Montclair, NJ

Dear Mr. & Mrs. Walton:

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

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In the Matter of the Petition	:	
	:	
of	:	
	:	
J. HUNTER WALTON and JEAN WALTON	:	DECISION
	:	
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Years 1968, 1969, 1970	:	
and 1971.	:	

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Petitioners, J. Hunter Walton and Jean Walton, 70 Plymouth Street, Montclair, New Jersey, 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 1968, 1969, 1970 and 1971 (File No. 01277).

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 J. Hunter Walton properly allocated his distributive share of partnership income from New York sources.

FINDINGS OF FACT

1. Petitioners, J. Hunter Walton and Jean Walton, filed New York State income tax nonresident returns for 1968, 1969, 1970 and 1971 in which they reported petitioner J. Hunter Walton'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 \$784.30 and

interest of \$108.95 for a total sum of \$893.25. Said Notice was based on an audit of the partnership Hunter Walton & Co. which resulted in additional income to petitioner J. Hunter Walton.

3. Petitioners signed a consent fixing period of limitation upon assessment of personal income and unincorporated business taxes for 1968 until April 15, 1973.

CONCLUSIONS OF LAW

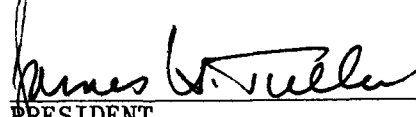
A. That petitioner J. Hunter Walton's proportionate share of partnership income for 1968, 1969, 1970 and 1971, from the partnership Hunter Walton & Co., (as determined in the State Tax Commission decision in the Matter of the Petition of Hunter Walton & Co., signed this date) was incorrectly recomputed by the Audit Division.

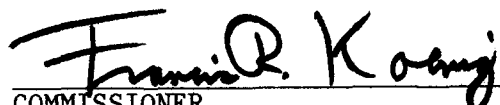
B. That the petition of J. Hunter Walton and Jean Walton for 1969 and 1971 is granted and the Notice of Deficiency issued on January 29, 1973 is cancelled; that the Audit Division is hereby directed to recompute petitioner J. Hunter Walton's distributive share of partnership income for 1968 and 1970 in a manner consistent with the decision rendered in the Matter of the Petition of Hunter Walton & Co., supra.

DATED: Albany, New York

OCT 09 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER