

STATE OF NEW YORK  
STATE TAX COMMISSION

HEARING UNIT - File Copy

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In the Matter of the Application

of

Charles H. Trayford, Kathryn McIntyre and  
Michael J. Fallon, Individually and as co-  
partners, d/b/u/ the firm name and style of  
Charles H. Trayford and Associates

For Revision or Refund of Personal Income  
and Unincorporated Business Taxes under  
Article 16 and 16-A of the Tax Law for the  
Years 1952 through 1957

SEE PAGE

DATE

DATE OF DECISION

DETERMINATION

REMARKS

The taxpayers having filed an application pursuant to Tax Law Sections 386j and 374 for revision or refund of Unincorporated Business Taxes imposed by Article 16-A of the Tax Law under additional assessments each dated May 5, 1960 for the years 1952 through 1957 and such application having been denied and a hearing thereon having been duly demanded and scheduled for 3:00 P.M. on July 28, 1969 at room 781, 80 Centre Street, before Nigel G. Wright, Hearing Officer, but with NO APPEARANCE being made by the taxpayer or by any one on his behalf and upon the application of Alexander Weiss., Esq. of counsel, to Edward H. Best, Esq., appearing on behalf of the Income Tax Bureau; and the file of the Income Tax Bureau pertaining to said deficiencies having been duly examined and considered,

The STATE TAX COMMISSION hereby

FINDS:

(1) Neither the taxpayer nor anyone on his behalf appeared at the hearing and no explanation therefore has been forthcoming.

(2) Assessments for Unincorporated Business Taxes were issued on May 5, 1960 for the following amounts, exclusive of interest and penalties:

1952 (short year), \$128.12; 1953, \$238.26; 1954, \$598.43; 1955, \$618.38; 1956, \$788.65; 1957 (short year), \$344.67

(3) Assessments, each dated May 5, 1960, were issued under Tax Law Section 376(3) (now renumbered as 376(4)) for failure to submit information concerning wages paid to employees for the years 1954 through 1957 in the amount of \$500.00 for each year.

(4) The taxpayers or their representatives appeared at preliminary conferences on September 25, 1963; October 25, 1963; January 22, 1964; September 23, 1964 and November 18, 1964 after which the Conferee Unit of the Income Tax Bureau recommended the assessments for Unincorporated Business Taxes be revised to the following amounts, exclusive of penalty and interest.

1952, zero; 1953, \$104.55; 1954, \$256.29; 1955, \$322.42; 1956, \$426.36; 1957, \$55.07

(5) The taxpayer paid certain sums during 1954 through 1957 to certain individuals as compensation for services. The taxpayer has failed to submit sufficient information to sustain the contention that these individuals were independent contractors rather than employees. In at least one case, the payments were, with few exceptions, the same amount of \$80 a week and, after May 1955, \$85 a week for each and every week.

Upon the foregoing findings the STATE TAX COMMISSION hereby  
DETERMINES:

A. The taxpayer voluntarily defaulted in this proceeding.

B. The assessments for penalties under Tax Law Section 376(3) (now sec. 378(4)) are affirmed in the amounts shown in finding number (3).

C. The assessments for Unincorporated Business Tax are revised and reduced to the amounts shown in finding number (4) and as reduced

are affirmed together with such additional charges, if any, as may be lawfully due under Sections 376 and 377 of the Tax Law.

D. The assessments herein, as revised and affirmed, have a reasonable basis in fact and in law and do not include taxes or other charges which could not have been lawfully demanded.

E. The demand for a hearing is dismissed.

Dated, Albany, New York this 17<sup>th</sup> day of February 1970.

STATE TAX COMMISSION

Norman Gallman  
PRESIDENT

Robert M. Mordley  
COMMISSIONER

Milton Koenig  
COMMISSIONER