

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHMOND HOWELL, JR.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article ~~(a)~~ 23 of the
Tax Law for the Year ~~(or)~~ 1970.

State of New York
County of Albany

MARYLOU SAMUELS, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of April, 1976, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Richmond Howell, Jr.

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. Richmond Howell, Jr.
120 Peachtree Road
Penfield, New York 14526

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 Post Office Department 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

26th day of April, 1976

Janet Mack

Marylou Samuels

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHMOND HOWELL, JR.

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business:
Taxes under Article(s) 23 of the
Tax Law for the Year(s) 1970.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

MARYLOU SAMUELS, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 26th day of April, 1976, she served the within Notice of Decision (or Determination) by ~~(certified)~~ mail upon N. Clifford Nelson (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: N. Clifford Nelson C.P.A.
c/o Price, Waterhouse & Co.
8410 18th Avenue
Brooklyn, New York 11214
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

26th day of April, 1976

Janet Mack

Marylou MacNeil Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER

(518) 457-3850

Dated: Albany, New York
April 26, 1976

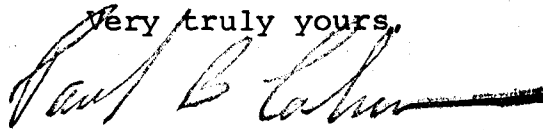
Mr. Richmond Howell, Jr.
120 Peachtree Road
Penfield, New York 14526

Dear Mr. Howell:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section ~~601~~ **722** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
RICHMOND HOWELL, JR.	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Unincorporated Business	:	
Taxes under Article 23 of the Tax Law	:	
for the Year 1970.	:	

Petitioner, Richmond Howell, Jr., residing at 120 Peachtree Road, Penfield, New York, has filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the year 1970. (File No. 0-52703804). A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, Marine Midland Plaza, Rochester, New York, on May 21, 1975. Petitioner appeared by N. Clifford Nelson, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Were the services rendered by the petitioner, Richmond Howell, Jr., during the year 1970 as golf professional of the Penfield Country Club, Inc. so interrelated and integrated with

his activities as operator of a golf shop as to constitute part of a business regularly carried on by him?

FINDINGS OF FACT

1. Petitioner, Richmond Howell, Jr., filed a New York State unincorporated business tax return for the year 1970. He omitted from business income on said return salary income in the sum of \$4,662.50 received from the Penfield Country Club, Inc.

2. On November 26, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Richmond Howell, Jr., imposing unincorporated business tax in the sum of \$266.20 upon the salary income of \$4,662.50 received by him during the year 1970 from the Penfield Country Club, Inc. on the grounds that the income was interrelated and interconnected with his unincorporated business. Accordingly, on November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$307.94.

3. Petitioner, Richmond Howell, Jr., in the year in issue was a golf professional with a two year contract with the Penfield Country Club, Inc., for the golfing season from April 15 to October 15. He has had this position for the past twelve years. He was paid weekly. His duties generally were those of a golf professional such as playing with member golfers,

instructing them, taking care of their equipment and the various facilities such as the greens and driving range. He had specified hours of duties and days off during the week. He was responsible for setting up and directing all tournaments, organized play and junior golf programs. The golf committee and the board of directors supervised his activities, and he reported regularly to them. Social security tax and Federal and New York State income taxes were withheld from his pay. Contribution to his P.G.A. pension fund was equally divided between the club and himself. He estimated that thirty-five to fifty hours were spent each week in these activities. The skill involved in this endeavor was essentially that of a golfer.

4. Petitioner, Richmond Howell, Jr., was also required to run the "pro-shop". He ordered, sold, rented and stored various golfing merchandise used by the members. The shop was located in a building apart from the clubhouse. He kept his own books. He hired the four or five employees as needed. He rented golf carts to the players which he himself had leased. All profits and fees received were his. He had continually paid New York State unincorporated business tax on this operation. He had an employer identification number. It was estimated that this took twenty hours of his time per week. The skill involved in this endeavor was essentially merchandising.

CONCLUSIONS OF LAW

A. That the services rendered by petitioner, Richmond Howell, Jr., during the year 1970, as an employee of Penfield Country Club, Inc. were not so integrated and interrelated with his activities in connection with his "golf-pro" shop business as to constitute part of a business regularly carried on by him and therefore, the salary of \$4,662.50 received by him for services as an employee of the corporation was exempt from the imposition of unincorporated business tax in accordance with the meaning and intent of section 703(b) of the Tax Law.

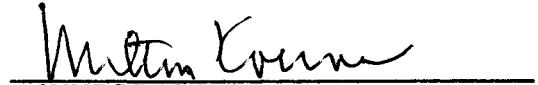
B. That the aforesaid activities of petitioner, Richmond Howell, Jr., on behalf of the Penfield Country Club, Inc. during the year 1970 did not constitute the carrying on of an unincorporated business and his income derived therefrom was not subject to unincorporated business tax in accordance with the meaning and intent of section 703 of the Tax Law.

C. That the petition of Richmond Howell Jr. is granted and the Notice of Deficiency issued on November 26, 1973, is cancelled.

DATED: Albany, New York
April 26, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHMOND HOWELL, JR.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of **Unincorporated Business** :
Taxes under Article ~~(x)~~ 23 of the
Tax Law for the Year ~~(x)~~ 1970 :

State of New York
County of Albany

JANET MACK

, being duly sworn, deposes and says that

she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of May , 1976 , she served the within

Notice of Decision ~~(or Determination)~~ by (certified) mail upon N. Clifford Nelson, CPA

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

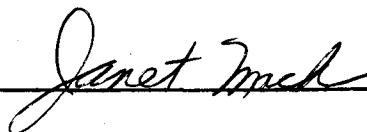
wrapper addressed as follows: N. Clifford Nelson, CPA
c/o Price, Waterhouse & Co.
111 Livingston Street

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

4th day of May , 1976.



STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

Underlying matter not received
Addressed to wrong person
Insufficient information
No such office in state
No such street
Do not return in this envelope



Handwritten signature and scribbles

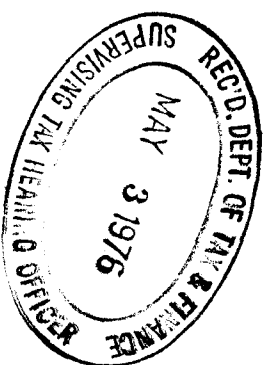
Handwritten signature

CERTIFIED

No. 403314

MAIL

N. Clifford Nelson C.P.A.
c/o Pride, Waterhouse & Co.
8410 18th Avenue
Brooklyn, New York 11214



*111 Livingston St.
Brooklyn, N.Y.*

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227



N. Clifford Nelson, CPA
c/o Price, Waterhouse & Co.
111 Livingston Street
Brooklyn, New York

CERTIFIED

No. 403350

MAIL

Price



☒ Moved, left no address
☐ No such number
☒ Moved, not forwardable
☒ Addresses unknown

unknown
in 1948
6/16/48
mz



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER

(518) 457-3850

Dated: Albany, New York
April 26, 1976

REMAILED: May 4, 1976

Mr. Richmond Howell, Jr.
120 Peachtree Road
Penfield, New York 14526

Dear Mr. Howell:

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Paul B. Coburn
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

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DATED: Albany, New York
April 26, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

