

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM F. JOYCE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income & Unincorporated Business :
Taxes under Article(s) 22 & 23 of the :
Tax Law for the Year(s) or Period(s) 1960, :
1961, 1962, 1963 and 1964.

State of New York
County of Albany

Donna Scranton, 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 23rd day of November, 1976, she served the within
Notice of Decision by (certified) mail upon William F.
Joyce ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. William F. Joyce
9 The Spur
Port Washington, New York 11050
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

23rd day of November, 1976

Donna Scranton

Janet Truck

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM F. JOYCE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund
of Personal Income & Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the Year(s) ~~or Period(s)~~ 1960, :
1961, 1962, 1963 and 1964.

State of New York
County of Albany

Donna Scranton, 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 23rd day of November, 1976, she served the within
Notice of Decision by (certified) mail upon John J.
Zureck, CPA (representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: John J. Zureck, CPA
c/o Albrecht, Viggiano
Zureck & Company
375 Fulton Street
Farmingdale, New York 11735
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

23rd day of November, 1976.

Donna Scranton

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

November 23, 1976

TELEPHONE: (518) 457-3830

Mr. William F. Joyce
9 the Spur
Port Washington, New York 11050

Dear Mr. Joyce:

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

Please take further notice that pursuant to
Section(s) **690 & 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.

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. They
will be referred to the proper party for reply.

Very truly yours,

PAUL E. OSBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
WILLIAM F. JOYCE : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income and Unin- :
corporated Business Taxes under Articles :
22 and 23 of the Tax Law for the Years :
1960, 1961, 1962, 1963 and 1964. :
:

Petitioner, William F. Joyce, residing at 9 the Spur, Port Washington, New York 11050, has filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1960, 1961, 1962, 1963 and 1964. (File No. 00099).

A formal hearing was held before Sidney Burstein, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on March 17, 1976 at 1:15 P.M. Petitioner appeared by John J. Zureck, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq. (James A. Scott, Esq., of counsel).

ISSUES

I. Whether petitioner, William F. Joyce's activities as a motion picture producer and consultant during the years 1960 through 1964 constituted the carrying on of an unincorporated business.

II. Whether petitioner, William F. Joyce, filed New York State personal income and unincorporated business tax returns for the years 1960 through 1964.

III. What was the amount of petitioner, William F. Joyce's personal income and unincorporated business tax for the years 1960 through 1964.

FINDINGS OF FACT

1. Petitioner, William F. Joyce, failed to file New York State income tax returns or unincorporated business tax returns for the years 1960 through 1964.

2. On June 26, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William F. Joyce, imposing personal income tax in the sum of \$2,666.56 and unincorporated business tax in the sum of \$1,375.77 for the years 1960 through 1964. It also imposed penalties in the sum of \$1,010.59 for failure to file personal income tax and unincorporated business tax returns for said years. The amount of taxes due for the years 1962 and 1963 were based on available information contained in Federal income tax returns. The amount of taxes due for the years 1960, 1961 and 1964 were based on estimated income. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$7,184.20.

3. Petitioner, William F. Joyce, failed to submit any documentatary or other substantial evidence to prove that he filed New York State income tax or unincorporated business tax returns for the years 1960 through 1964. Further, he failed to submit any documentary or other substantial evidence to prove that his income for 1960, 1961 and 1964 was different from the amount estimated by the Income Tax Bureau, or that his income for 1962 and 1963 was different from the amounts set forth in his personal income tax returns. His Federal income tax return for 1962 did not indicate a deduction for New York State income taxes paid.

4. Petitioner, William F. Joyce, was a self-employed motion picture producer and consultant during the years 1960 through 1964.

CONCLUSIONS OF LAW

A. That petitioner, William F. Joyce's activities as a motion picture producer and consultant during the years 1960 through 1964 constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law. His activities did not constitute the practice of a profession exempt from the unincorporated business tax.

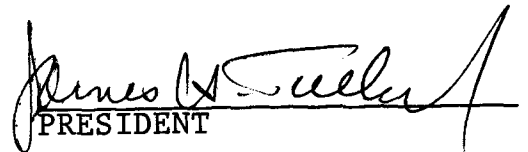
B. That petitioner, William F. Joyce, failed to pay New York State personal income tax due in the sum of \$2,666.56 and unincorporated business taxes due in the sum of \$1,375.77 for the years 1960 through 1964.

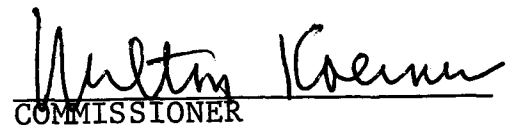
C. That penalties in the sum of \$1,010.59, for failure to file New York State personal income tax and unincorporated business tax returns for the years 1960 through 1964, were properly imposed upon petitioner, William F. Joyce.

D. That the petition of William F. Joyce is denied and the Notice of Deficiency issued June 26, 1972 is sustained.

DATED: Albany, New York
November 23, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER