

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GRAHAM D. MATTISON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Unincorporated Business :
Taxes under Article(s) 23 of the :
Tax Law for the Year(s) or Period(s) :
1966 -- 1968

State of New York
County of Albany

Bruce Batchelor , 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 14th day of April , 1977, he served the within
Notice of Decision by (certified) mail upon Graham D. Mattison
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Graham D. Mattison
14 Wall Street
New York, New York 10005
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

14th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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For a Redetermination of a Deficiency or :
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Notice of Decision by (certified) mail upon Richard H. Appert, Esq.

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as follows: Mr. Richard H. Appert, Esq.
14 Wall Street
New York, New York 10005

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STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

April 14, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-1723**

Mr. Graham F. Mattison
14 Wall Street
New York, New York 10005

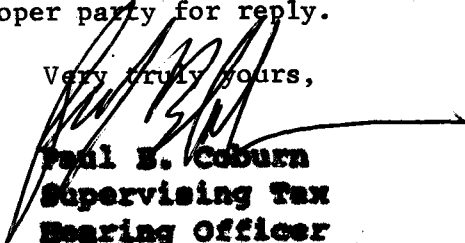
Dear Mr. Mattison:

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

Please take further notice that pursuant to
Section(~~30~~) **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. Coburn
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
GRAHAM D. MATTISON
for Redetermination of a Deficiency or
for Refund of Unincorporated Business
Taxes under Article 23 of the Tax Law
for the Years 1966 through 1968.

DECISION

Petitioner, Graham D. Mattison, 14 Wall Street, New York, New York 10005, filed a petition for redetermination of a deficiency or for refund of unincorporated business taxes under Article 23 of the Tax Law for the years 1966, 1967 and 1968. (File No. 0-0001330).

A formal hearing was held before Michael Alexander, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 16, 1976 at 3:00 P.M. The petitioner appeared by Richard H. Appert, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Michael Weinstein, Esq. of counsel).

ISSUES

I. Whether petitioner, Graham D. Mattison, was engaged in a trade or business constituting an unincorporated business, during the years 1966 through 1968.

II. Whether, if the petitioner is found to be engaged in an unincorporated business in the years in issue, should all of the income attributable to petitioner's business be allocated to New York State.

III. Whether any penalties should be imposed on the petitioner for his failure to file unincorporated business tax returns for the years in issue.

FINDINGS OF FACT

1. Petitioner, Graham D. Mattison, filed New York State resident income tax returns for the years 1966, 1967 and 1968, but did not file unincorporated business tax returns for said years.

2. On June 28, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Graham D. Mattison, imposing unincorporated business tax in the sum of \$9,447.06, \$7,647.78 and \$10,554.46, plus penalty and interest, for the years 1966, 1967 and 1968 respectively, upon the grounds that his activities in managing trusts for various principals constituted the carrying on of an unincorporated business. Accordingly, a Notice of Deficiency was issued against the petitioner in the sum of \$39,807.46.

3. Petitioner, Graham D. Mattison, during the years 1966, 1967 and 1968 was domiciled in the State of New York, but maintained no permanent place of abode in this State.

4. During 1966, 1967 and 1968 the taxpayer maintained a small one room office on the 30th Floor of 14 Wall Street, New York, New York.

5. The taxpayer in earlier years had practiced law as a partner in White & Case and was Partner in Charge of the Foreign Department at Dominick & Dominick.

6. Miss Caton had been the taxpayer's secretary at White & Case and at Dominick & Dominick and he continued to employ her after his retirement from Dominick & Dominick to keep his personal and tax records and to attend to his personal correspondence.

7. The taxpayer's earned income in the years 1966, 1967 and 1968 was from directors fees and trustees commissions.

8. The taxpayer's fees as director of the various corporations were normally earned at the places where the board meetings were held and not in his office.

9. The taxpayer's commissions as trustee were received from trusts of which he is trustee or co-trustee. In all cases the securities are held in custodian accounts here or abroad. The taxpayer's decisions as trustee are made wherever he happens to be.

10. The taxpayer was in New York State 144 days in 1966, 117 days in 1967 and 135 days in 1968.

11. The taxpayer was not an investment counsel to the trusts. He was a trustee of the trusts and made decisions as trustee or co-trustee after receiving investment advice from others. He obtained his investment advice, both for his own and trust investment purposes, from banks, brokers and investment firms in many countries, including Dominick & Dominick, Clark Dodge & Co., White Weld & Co., Halgarten & Co., Blyth Eastman Dillon & Co., U.S. Trust Company, Bank of New York and Chase Manhattan Bank in New York, Bankers Trust Company in New York and London, Morgan Guaranty Trust Company in New York and Paris, First National City Bank in New York, Paris and London, Marine Midland Bank in New York, Paris and London, Lazard Bros. Ltd., S. & G. Warburg Ltd. and Hill, Samuel & Co. in London, Swiss Bank Corporation in New York and Basle, Credit Suisse in New York and Zurich, Banque de Suez in Paris, Stockholms Enskilda Bank in Stockholm, Deutsche Bank in Frankfurt, Hollandsche Bank - Unie in Amsterdam and Banque Lambert in Brussels. The trusteeships which he took on, he took on as an incident to his work as a lawyer at White & Case or to his work as the Partner in Charge of the Foreign Department at Dominick & Dominick. While he was

trustee of about 15 trusts, all of these trusts had their origin in personal relationships which he developed while a partner in White & Case and Dominick & Dominick and involved only four family groups. Only one trust, the Bahamas International Trust Company trust of April 9, 1963, was created after he left Dominick & Dominick and this trust was created for the benefit of the same family group as the Alberta Canada trust of April 3, 1930.

12. The trustees commissions received by the taxpayer were reported in his Federal income tax return partly in Schedule B and partly in Schedule C.

13. The Income Tax Bureau, in proposing assessments of deficiencies in unincorporated business tax, computed the tax on the basis of trustees commissions reported in Schedules B and C of the taxpayer's Federal income tax returns less (1) the expenses of the New York office reflected in Schedule C of his Federal income tax returns, (2) the \$5,000 allowance for services and (3) the \$5,000 exemption as follows:

	<u>1 9 6 6</u>	<u>1 9 6 7</u>	<u>1 9 6 8</u>
From Schedule B, Part III	\$159,903.30	\$178,885.40	\$208,627.13
From Schedule C Trustees Commissions	<u>123,389.15</u>	<u>58,707.78</u>	<u>33,657.82</u>
Gross Business Receipts	\$283,292.45	\$237,593.18	\$242,284.95
Business deductions from Schedule C	<u>37,115.95</u>	<u>36,398.60</u>	<u>40,385.65</u>
Net profit from business	\$246,176.50	\$201,194.58	\$201,899.30
Less: Allowance for services	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>
Net income from business	\$241,176.50	\$196,194.58	\$196,899.30
Less: Exemption	<u>5,000.00</u>	<u>5,000.00</u>	<u>5,000.00</u>
Taxable business income	<u>\$236,176.50</u>	<u>\$191,194.58</u>	<u>\$191,899.30</u>

14. The petitioner, Graham D. Mattison, during the taxable years here involved, had available, for his use, office space and part-time secretarial services in the law offices of Richard F. Cronan, 4 Rue Street, Florentin, Paris, for purposes of personal correspondence.

CONCLUSIONS OF LAW

A. That during the years in issue petitioner, Graham D. Mattison, was engaged in an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law.



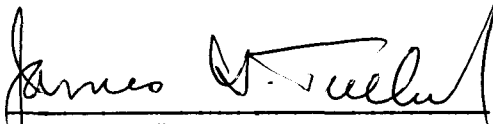
B. That, since the petitioner, Graham D. Mattison, had no regular place of business outside of New York State during the years in issue, all of the income attributable to the activities in issue was allocable to New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.


C. That petitioner, Graham D. Mattison, had reasonable cause for failing to file New York State unincorporated business tax returns for the years in issue, and that therefore, the penalty imposed by section 685(a) of the Tax Law is cancelled.

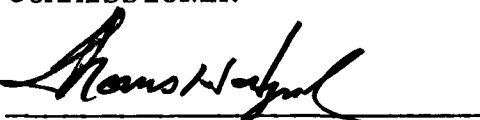
D. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued June 28, 1971; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
April 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER