

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THE PARTNERSHIP of  
DONALD RICHEY and ARTHUR F. WILLIAMS  
For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Unincorporated Business  
Taxes under Article (X) 23 of the  
Tax Law for the Year(s) ~~XXXX Period(s)X~~  
1970 and 1971

AFFIDAVIT OF MAILING

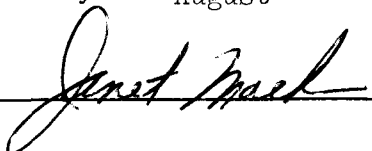
State of New York  
County of Albany

Marsina Donnini, 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 22 day of August, 1977, she served the within  
Notice of Decision by (certified) mail upon Donald Richey & Arthur F.  
Williams ~~XXXXXX~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Donald Richey & Arthur F. Williams  
107 East 63rd Street  
New York, New York  
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 ~~XXXXXX~~  
~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the  
last known address of the ~~XXXXXX~~ petitioner.

Sworn to before me this

22 day of August, 1977.

  
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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

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DONALD RICHEY and ARTHUR F. WILLIAMS  
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a Revision of a Determination or a Refund  
of Unincorporated Business  
Taxes under Article ~~(6)~~ 23 of the  
Tax Law for the Year(s) ~~XXXXXX~~  
1970 and 1971

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Marsina Donnini, 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 22 day of August, 1977, she served the within  
Notice of Decision by (certified) mail upon Lawrence W. Kevy, CPA  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Lawrence W. Kevy, CPA  
141 East 56th Street  
New York, New York 10022  
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

22 day of August, 1977.

Marsina Donnini

Janet Mack



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

August 22, 1977

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

Donald Richey & Arthur F. Williams  
107 East 63rd Street  
New York, New York

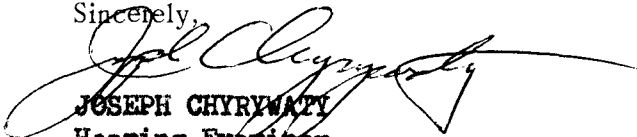
Gentlemen:

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 **(b) 722** 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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
**JOSEPH CHYRYWATY**  
Hearing Examiner

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
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of	:	
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THE PARTNERSHIP of	:	DECISION
DONALD RICHEY and ARTHUR F. WILLIAMS	:	
for Redetermination of a Deficiency or for	:	
Refund of Unincorporated Business Taxes	:	
under Article 23 of the Tax Law for the	:	
Years 1970 and 1971.	:	

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Petitioners, the partnership of Donald Richey and Arthur F. Williams, residing at 107 East 63rd Street, New York, New York, have 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 1970 and 1971. (File No. 12760).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on February 2, 1977 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Lawrence W. Kevy, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUE

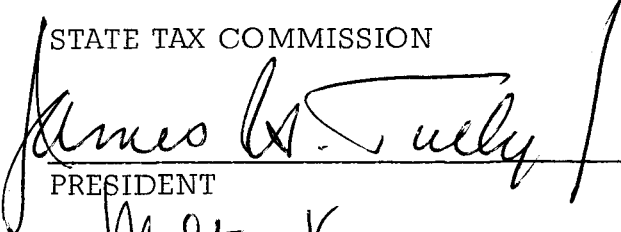
Whether the income from the activities of the partnership of Donald Richey and Arthur F. Williams was subject to the unincorporated business tax.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The partnership of Donald Richey and Arthur F. Williams was in the business of renting furnished summer homes during the years 1970 and 1971.
2. The partnership returns indicated that one parcel of real property was sold in 1966; one in 1967; and three parcels in 1970.
3. Occasionally, the partnership would purchase land and construct a summer home, for renting and/or for selling.
4. All homes were normally rented fully furnished on a seasonal basis.
5. That the burden of proof has not been sustained in substantiating that the partnership of Donald Richey and Arthur F. Williams was solely engaged in the holding, leasing or managing of real property for its own account, in accordance with the meaning and intent of section 703(e) of the Tax Law.
6. That the petition of the partnership of Donald Richey and Arthur F. Williams is denied and the Notice of Deficiency issued December 23, 1974, in the amount of \$1,163.90, is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York  
August 22, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

**SMALL CLAIMS**

TA-26 (4-76) 25M

**STATE OF NEW YORK**

**Department of Taxation and Finance**

**TAX APPEALS BUREAU**

**STATE CAMPUS**

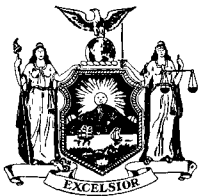
**ALBANY, N. Y. 12227**

Donald Richey & Arthur F. Williams  
107 East 63rd Street  
New York, New York

*Shannon*  
*8/25*

8/29/77





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

August 22, 1977

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

Donald Richey & Arthur F. Williams  
107 East 63rd Street  
New York, New York

Gentlemen:

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(3) 722 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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
JOSEPH CHYRIWATY  
Hearing Examiner

cc: Petitioner's Representative  
Taxing Bureau's Representative



STATE OF NEW YORK

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