

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CROSS COUNTY HOSPITAL

AFFIDAVIT OF MAILING

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) ~~xxxxxx~~ :
1969 and 1970.

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 17th day of April , 1978, ~~she~~ he served the within
Notice of Decision by (certified) mail upon Cross County Hospital

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Cross County Hospital
6 Xavier Drive
Yonkers, New York 10704

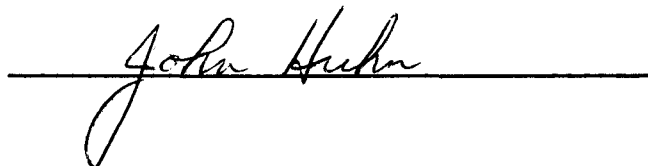
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~
~~xxxxxx~~) petitioner herein and that the address set forth on said wrapper is the
last known address of the (~~representative of~~) petitioner.

Sworn to before me this

17th day of April , 1978.





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State of New York
County of Albany

John Huhn , 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 17th day of April , 1978, ~~he~~ served the within
Notice of Decision by (certified) mail upon Herbert W. Aronson

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Herbert W. Aronson, Esq.
22 West First Street
Mount Vernon, New York 10550

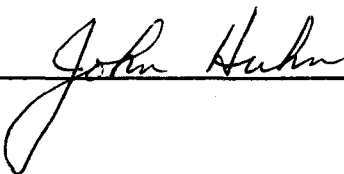
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

17th day of April , 1978.







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

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

April 17, 1978

**Cross County Hospital
6 Xavier Drive
Yonkers, New York 10704**

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 **(8) 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,

**Aloysius J. Mendka
Assistant Director**

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
CROSS COUNTY HOSPITAL
for Redetermination of a Deficiency or
for Refund of Unincorporated Business
Tax under Article 23 of the Tax Law for
the Years 1969 and 1970.

DECISION

Petitioner, Cross County Hospital, 6 Xavier Drive, Yonkers, New York 10704, filed a petition for redetermination of a deficiency or for refund of unincorporated business tax under Article 23 of the Tax Law for the years 1969 and 1970.

(File No. 01055).

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 19, 1976 at 9:15 A.M. and continued on December 9, 1976 at 9:15 A.M. Petitioner appeared by Herbert W. Aronson, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether payments made to certain doctors by petitioner, Cross County Hospital, were payments made to management and should be

included in the unincorporated business tax income of petitioner for the years 1969 and 1970.

FINDINGS OF FACT

1. Petitioner, Cross County Hospital, filed New York State partnership returns for the years 1969 and 1970.

2. On January 29, 1973, the Income Tax Bureau issued a Statement of Audit Changes to petitioner, Cross County Hospital, and stated additional unincorporated business tax liability of \$6,714.40 and \$5,869.60 for the years 1969 and 1970, plus penalty for underestimation of such tax of \$16.52 and \$12.18 for those respective years. Accordingly, the Income Tax Bureau issued a Notice of Deficiency on January 29, 1973 to petitioner, Cross County Hospital, asserting additional tax and penalty totalling \$14,365.83 for the years 1969 and 1970.

3. On January 1, 1969, Doctors Lester J. Besen, Charles J. Francomano, Charles A. Rizzo and Julius D. Jasper entered into an agreement, as partners, to engage in and conduct the business of operating a private, proprietary hospital at 6 Xavier Drive in the City of Yonkers, New York. The name of that partnership was to be Cross County Hospital.

4. On February 28, 1969, the partnership, Cross County Hospital, filed a Business Certificate for Partners in the clerk's office in the County of Westchester and paid the fee for such filing. Said certificate stated that the partners (the same four

doctors as listed in the partnership agreement described in Finding of Fact "3" above,) certify that they are conducting or transacting business as members of a partnership under the name of Cross County Hospital.

5. During 1969 and 1970, approximately 1,000 doctors had privileges at Cross County Hospital. Doctors who served as committee heads and in some instances as co-chairmen of committees were paid for services rendered in connection with committee operations, reports, reviews, and other medical functions performed for petitioner, Cross County Hospital.

6. On September 30, 1975, Doctors Lester J. Besen, Charles Francomano, Charles Rizzo and Julius Jasper, co-partners doing business as Cross County Hospital, gave notice of the filing of a petition under Chapter XI of the Bankruptcy Act.

CONCLUSIONS OF LAW

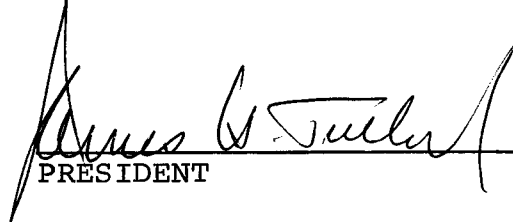
A. That Cross County Hospital was an unincorporated business and constituted a partnership, the partners of which were Doctors Lester J. Besen, Charles J. Francomano, Charles A. Rizzo and Julius D. Jasper.

B. That any other money paid to doctors other than these partners was not income to petitioner, Cross County Hospital.

C. That the petition of Cross County Hospital is granted
and the Notice of Deficiency dated January 29, 1973 is cancelled.

DATED: Albany, New York
April 17, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER