

BUREAU OF LAW

MEMORANDUM

*Income Tax Determinations
A-2
Van Dusen, Betty and
William*

TO: Commissioner Palestin
FROM: E. H. Best, Counsel
SUBJECT: William and Betty Van Dusen
Offer in Compromise

*x. ny
Unincorp. Bus. Tax
Determinations A-2
Van Dusen, William*

An offer in compromise was submitted, by the above taxpayers, for the consideration of the Commission on July 21, 1965. The enclosed letter was submitted by Mr. Van Dusen in response to your request for further information contained in your memorandum of August 2, 1965.

A review of the file shows that the basic tax owed by Mr. Van Dusen is \$816.40 which consists of \$498.60 for personal income tax for the year 1960 and \$317.80 for unincorporated business tax for the same year. Mrs. Van Dusen owes personal income tax for the year 1960 in the amount of \$118.35. The increase in the amounts as shown is due to penalty and interest added at the time of assessment plus accrued interest from July 18, 1962. A joint return was filed for the year 1960 by the taxpayers.

The other questions raised in your memorandum are answered by Mr. Van Dusen in his letter.

E. H. Best
Counsel

Enc.

JGR:SC

August 27, 1965

VAN DUSEN ROOFING COMPANY

71 PRATT AVENUE, JOHNSON CITY, NEW YORK, PHONE: RA 9-4119

August 5, 1965

Mr. Nickolas DiMarco
Department of Taxation and Finance
Law Bureau
State Campus
Albany, N.Y. 12226

Re: State Tax Commission
Vs.
Betty & William R. Van Dusen

Dear Sir:

In reply to your letter of August 4 I will try to answer some details you requested.

I obtain my work both by the job and by the hour.
The materials purchased are various roofing materials.
My wife is a housewife who answers the telephone for my business.

Removal of the tax judgment is necessary to obtain credit for purchase of material and also to obtain bonds in connection with roofing work.

When we sent in our Offer in Compromise we also sent in copies of all the returns for the previous years which showed our profit and loss statements. We also enclosed copies of compromise and carryback with the Federal government.

At the present time we have neither an attorney or an accountant.

Yours truly,

William R. Van Dusen
William R. Van Dusen.

RECEIVED

AUG 10 1965

LEGAL ENFORCEMENT UNIT
LAW BUREAU



Mesars. Best, Roche and Gifford


Commissioner Palestin

William R. VanDusen

Betty VanDusen

In the absence of Mr. Roche today, I spoke briefly with Mr. Gifford. Here income taxes (Are they basic?) of \$1020 and \$147 are proposed to be compromised for \$300 and \$25 respectively. Law Bureau memorandum seems to indicate that both husband and wife, the taxpayers, have an operating business. This business is insolvent but is in operation.

Who is operating the business? Are there profit and loss statements available? How come the business still "operates," although husband is a self-employed roofer and wife is unemployed? Perhaps this is a good offer. But if there is a chance of an eventual larger recovery, I would rather risk the loss of the present tender. With the business still operating, cogent reasons must be shown why the Tax Department is willing to accept this drastic slash in its assessment.


IRA J. PALESTIN
State Tax Commissioner

August 2, 1965

cc: Commissioner Macduff

**Dictated by Commissioner Palestin
and signed in his absence.**

BUREAU OF LAW

MEMORANDUM

TO: Commissioners Murphy, Palestin and Macduff

FROM: E. H. Best, Counsel

SUBJECT: William R. VanDusen
Betty VanDusen
LE 003870 - \$1,020.51
LE 003871 - 147.95

Forwarded herewith are the Legal Enforcement Unit's files on William R. and Betty VanDusen together with completed offers in compromise, certified checks in the amounts of \$300 and \$25, and New York State tax returns from 1960 through 1963. The tax liability sought to be compromised was incurred for the year 1960 when the taxpayer and his wife showed a joint income of \$21,381.27. The following year the taxpayer reported a net loss of \$18,785.12 from business operations. Their Federal deficiency was cancelled through use of the loss carryback provision of the Federal Law, which was not available in the State matter. During the following years for which returns are available, they reported income of \$6,049.58 and \$6,741.88.

From a review of the information submitted in their offers in compromise, it appears that they have assets worth approximately \$27,543.47 in the event that a sale was forced as under execution, and liabilities of \$54,619.33. While they are insolvent they have managed to stave off the filing of a petition in bankruptcy and to make payments on the debts. Information received in supplementary proceedings reveals that all money received over and above the bare necessities is used to pay on real estate and equipment mortgages in order to keep operating their business.

Betty VanDusen is not gainfully employed and there does not appear to be any legal means by which collection of her account in the amount of \$147.95 can be made. It is recommended that the offer of \$25 in compromise of her tax liability be accepted.


William R. VanDusen is self-employed as a roofer with net earnings between \$6,000 and \$7,000 a year. From

*Approved
J. H. Best
8/2/65*

the information submitted in the offer in compromise and obtained through supplementary proceedings, all his real and personal property is heavily mortgaged and payment cannot be enforced by levy. It would appear that the only collection procedure available at this time is to move for an installment payment order under Civil Practice Law and Rules § 5226. In view of the fact that the taxpayer has six minor children and a wife dependent on him for support, it is doubtful that such an order would be issued.

According to the affidavit and testimony of Mr. VanDusen the offer of \$300 in full settlement of the tax account of \$1,020.51 is as favorable in terms of percentage as the compromises made with other creditors. The amount being offered in compromise was borrowed from the Public Loan Co., Johnson City, New York. It appears that the best interest of the State would be served by acceptance of the offer of \$300, and it is recommended that the offer be accepted.

If the offer is accepted, please sign one order in each proceeding and return all papers to this office for further processing.


Counsel

JGR:EC
Enc.
July 21, 1965

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application

of

BETTY VAN DUSEN

for

ORDER OF COMPROMISE

Compromise of Personal Income Taxes
under Article 16 of the Tax Law for the
Calendar Year 1960

A verified petition having been duly presented and filed by Betty VanDusen, 71 Pratt Avenue, Johnson City, New York pursuant to Section 171, Paragraph 16, of the Tax Law praying for a compromise of personal income taxes assessed under Article 16 of the Tax Law, which are due and owing to the State Tax Commission by Betty VanDusen for the calendar year 1960;

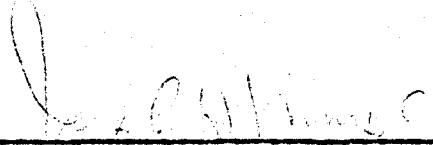
And it appearing that the said Betty VanDusen is indebted to the New York State Tax Commission in the sum of \$118.35 for personal income taxes for the calendar year 1960; and that interest and penalties thereon amount to \$36.10 and that the total amount of taxes, interest and penalty due from the said Betty VanDusen is \$154.45; and it further appearing from proof submitted that the said Betty VanDusen is insolvent and that the amount offered in compromise, namely the sum of \$25 is not less than the amount that could be recovered through legal proceedings, it is

ORDERED, that pursuant to authority conferred in and by Section 171, Paragraph 16, of the Tax Law, the said tax liability and indebtedness of the said Betty VanDusen, the petitioner herein, amounting to \$154.45 be and the same are hereby compromised for the sum of \$25, and it is further

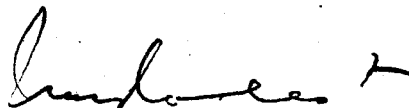
ORDERED that the aforesaid sum of \$25 shall be paid to the State Tax Commission within twenty days after the receipt of notice of the issuance of this Order and that upon said payment the said Betty VanDusen, the petitioner herein, will thereby be discharged and released by the State Tax Commission from all liability and indebtedness to the State Tax Commission for unpaid personal income taxes assessed under Article 16 of the Tax Law for the calendar year 1960 and from all interest and penalties thereon, and that a properly and duly executed satisfaction of any warrant or warrants docketed and recorded by the State Tax Commission, be issued in full satisfaction thereof, and it is further

ORDERED that in the event of failure of said petitioner herein to pay or cause to be paid, the amount of said tax liability and indebtedness as herein compromised within the time herein prescribed then this Order shall be null and void and the amount of tax liability and indebtedness of said Betty VanDusen for personal income taxes for the calendar year 1960 shall be the amounts hereinbefore assessed and imposed, and the penalties and interest thereon.

STATE TAX COMMISSION



Commissioner



Commissioner



Commissioner

DATED: July 15, 1965

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application

of

WILLIAM R. VAN DUSEN

for

ORDER OF COMPROMISE

Compromise of Personal Income Taxes and
Unincorporated Business Taxes assessed
under Article 16 and 16A of the Tax Law
for the Calendar Year 1960

A verified petition having been duly presented and filed by William R. VanDusen, 71 Pratt Avenue, Johnson City, New York pursuant to Section 171, Paragraph 16, of the Tax Law praying for a compromise of personal income taxes and unincorporated business taxes assessed under Article 16 and 16A of the Tax Law, which are due and owing to the State Tax Commission by William R. VanDusen for the calendar year 1960;

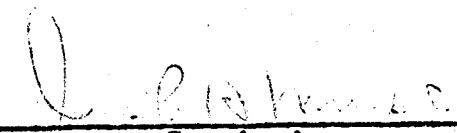
And it appearing that the said William R. VanDusen is indebted to the New York State Tax Commission in the sum of \$816.40 for personal income taxes and unincorporated business taxes for the calendar year 1960; and that interest and penalties thereon amount to \$249 and that the total amount of taxes, interest and penalty due from the said William R. VanDusen is \$1,065.40; and it further appearing from proof submitted that the said William R. VanDusen is insolvent and that the amount offered in compromise, namely the sum of \$300 is not less than the amount that could be recovered through legal proceedings, it is

ORDERED, that pursuant to authority conferred in and by Section 171, Paragraph 16, of the Tax Law, the said tax liability and indebtedness of the said William R. VanDusen, the petitioner herein, amounting to \$1,065.40 be and the same are hereby compromised for the sum of \$300, and it is further

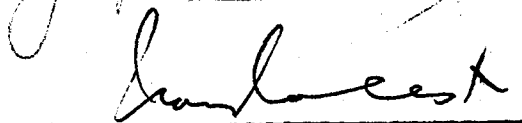
ORDERED that the aforesaid sum of \$300 shall be paid to the State Tax Commission within twenty days after the receipt of notice of the issuance of this Order and that upon said payment the said William R. VanDusen, the petitioner herein, will thereby be discharged and released by the State Tax Commission from all liability and indebtedness to the State Tax Commission for unpaid personal income taxes and unincorporated business taxes assessed under Article 16 and 16A of the Tax Law for the calendar year 1960 and from all interest and penalties thereon, and that a properly and duly executed satisfaction of any warrant or warrants docketed and recorded by the State Tax Commission, be issued in full satisfaction thereof, and it is further

ORDERED that in the event of failure of said petitioner herein to pay or cause to be paid, the amount of said tax liability and indebtedness as herein compromised within the time herein prescribed then this Order shall be null and void and the amount of tax liability and indebtedness of said William R. VanDusen for personal income taxes and unincorporated business taxes for the calendar year 1960 shall be the amounts hereinbefore assessed and imposed, and the penalties and interest thereon.

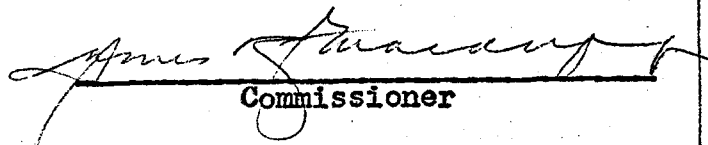
STATE TAX COMMISSION



Commissioner



Commissioner



Commissioner

DATED: July 15, 1965