

STATE OF NEW YORK
STATE TAX COMMISSION

Collins, Wm. S.
Personal Income
Article 22

In the Matter of the Petition

of

William S. Collins

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1961

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro, 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 13th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon William S. Collins (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: William S. Collins
10 Cressmont Road
Montclair, New Jersey

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

13th day of January, 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION :
OF :
WILLIAM S. COLLINS : DECISION
FOR REDETERMINATION OF A DEFICIENCY OR FOR :
REFUND OF PERSONAL INCOME TAXES UNDER :
ARTICLE 22 OF THE TAX LAW FOR THE YEAR :
1961 :

William S. Collins having filed a timely petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1961 and the notice of hearing having been mailed to the taxpayer, William S. Collins, on April 16, 1968 scheduling a formal hearing to be held at the office of the State Tax Commission at 80 Centre Street, New York, New York on the 8th day of May 1968 at 2 p.m. before Solomon Sies, Hearing Officer of the Department of Taxation and Finance and the taxpayer having defaulted in appearance thereat,

The State Tax Commission hereby finds:

(1) William S. Collins filed a New York State income tax non-resident return (Form IT-203) for the year 1961 in which he reported wages received from the Guardian Life Insurance Company of America, 201 Park Avenue South, New York, New York, in the amount of \$24,185.00. He also filed a New York State unincorporated business tax return (Form IT-202) in which he indicated net income from business in the amount of \$3,116.56. The taxpayer reported Federal adjusted gross income in the amount of \$32,821.60 but only reported income attributable to New York sources in the amount of \$15,652.58.

(2) On December 16, 1963 the Department of Taxation and Finance issued a Statement of Audit Changes against the taxpayer for the year 1961 disallowing any allocation of income attributable to sources without the State of New York as reported on said return and further disallowed deduction of \$231.88 for 1960 overpayment. Accordingly, a Notice of Deficiency was issued against the taxpayer in the amount of \$759.99 with interest of \$76.12 for a total of \$836.11.

(3) During the year 1961 William S. Collins was employed as a branch manager of Guardian Life Insurance Company. He received a basic salary of \$15,000.00 a year plus an incentive bonus which fluctuated from year to year based upon the performance of the branch under his supervision. The Guardian Life Insurance Company paid all of the clerical help directly and also paid the rent for the maintenance of the office. There were some soliciting agents who were also paid directly by the company. The Guardian Life Insurance Company gave the taxpayer \$1,000.00 a month for expenses for supplies, repairs to equipment, stationery, etc. If the expenditures exceeded the amounts allotted, the taxpayer was required to bear the cost of the excess himself.

(4) There were three to eight soliciting agents stationed in the taxpayer's branch unit. In addition, his agency was concerned with policies written by independent insurance brokers who submitted policies and premium payments for the taxpayer's branch office which were forwarded to the Guardian Life Insurance Company.

(5) Although the taxpayer originally claimed that approximately 50% of his time was spent in New Jersey soliciting business from general insurance brokers, it was agreed at a

preliminary conference that he be permitted an allocation of 15% of such income attributable to sources outside the State of New York based on various statistical data submitted by the taxpayer or his representative.

(6) In accordance with the understanding reached at the preliminary conference with the taxpayer and his accountant on March 26, 1965 (as more fully set forth in finding (5) above), the conferee recommended that the statement of audit changes be modified and recomputed as follows:

1961

Compensation	\$24,185.00
"Business" income per IT 202	<u>3,895.69</u>
Total	\$28,080.69
Less 15% earned out of New York	<u>4,212.10</u>
	\$23,868.59

Allowable deductions:

$\frac{\$23,868}{32,821} \times 8,961.47 =$	6,523.00
	<u>\$17,345.59</u>
Exemption	<u>3,000.00</u>
	\$14,345.59
Tax due	\$ 776.10
Less: Tax withheld	<u>325.55</u>
Additional tax due together with interest from the due date and any other statutory charges that may be due.	\$ 450.55

Based upon the foregoing findings the State Tax Commission hereby

DECIDES:

(A) The taxpayer, William S. Collins, is entitled to an allocation of income attributable to sources outside the State of New York to the extent of 15% as more fully set forth in findings (5) and (6) above.

(B) Accordingly, the Statement of Audit Changes and Notice of Deficiency for the year 1961 are hereby modified so as to reduce the additional tax due to \$450.55 with interest from April 15, 1962 and any other statutory charges that may be lawfully due. Except as herein modified the petition of the taxpayer for the year 1961 is hereby denied.

Dated: Albany, New York on this *11th* day of *January*, 1970.

STATE TAX COMMISSION

Norman F. Halloran

ACTING PRESIDENT

COMMISSIONER

Milton Koerner

COMMISSIONER