

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
FRANCIS C. HAND

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) 1967

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

State of New York
County of Albany

Rae Zimmerman, 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 25th day of February , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Francis C. Hand (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Francis C. Hand
21 Roosevelt Road
Maplewood, New Jersey 07040
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

25th day of February , 1972.

Linda Wilson

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION,

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

Albany, New York

February 25, 1972

Francis G. Hand, Esq.
21 Roosevelt Road
Maplewood, New Jersey 07040

Dear Mr. Hand:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **four months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Lawrence A. Newman

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

FRANCIS C. HAND : DECISION

for a Redetermination of a Deficiency or :
for refund of Personal Income Taxes under
Article 22 of the Tax Law for the year :
1967.

Francis C. Hand has petitioned for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1967. A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the offices of the State Tax Commission in the City of New York, on January 19, 1971. The petitioner appeared and testified. The Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Whether the petitioner may allocate or apportion his compensation for personal services as derived from sources within and without the State of New York.

FINDINGS OF FACT

1. Francis C. Hand, and his wife, Annamarie L. Hand, filed a joint New York State income tax nonresident return for the year 1967.
2. On May 26, 1969, the Income Tax Bureau issued a notice of deficiency, under file numbered 73010480, in the amount of \$77.33, plus statutory interest.

3. On August 18, 1969, Francis C. Hand filed a timely petition for redetermination of the deficiency.

4. The petitioner and his wife were residents of the State of New Jersey during the year 1967.

5. The petitioner is a patent attorney. He received the degree of Bachelor of Civil Engineering from Manhattan College, and Doctor of Laws, from Georgetown University. He was admitted to practice before the United States Patent Office, the courts of the State of New York, and various courts of the United States.

6. Prior to the year 1967, the petitioner was employed on a salary basis by the law firm of Kenyon and Kenyon, whose office was at 59 Maiden Lane, New York City.

7. Commencing January 1, 1967, by written agreement, the petitioner became an "Associate" of the law firm. The agreement measured compensation based upon a percentage participation in the fees collected by the firm from clients obtained and/or serviced by the petitioner, or a guaranteed yearly compensation of \$12,000.00, whichever was greater.

8. During the year 1967, the petitioner received compensation totaling \$12,400.00 (including a bonus of \$400.00) from which Federal and New York State income taxes, and social security taxes, were withheld.

9. The petitioner has failed to prove that any number of working days were spent entirely without the State of New York.

10. The petitioner has failed to prove that the personal services performed in his home in the State of New Jersey, were done at that location, for other than his own greater convenience.

DECISION

A. The petitioner's compensation for services does not depend directly on the volume of business transacted by him, (within the meaning and intent of §131.15 of the New York Codes, Rules and Regulations), and this method of apportionment is not applicable to him.

B. The petitioner has not complied (within the meaning and intent of §131.16 of the New York Codes, Rules and Regulations) with the requirements permitting the apportionment of the earnings of nonresident employees.

C. The petition is denied and the deficiency is sustained.

DATED: Albany, New York

February 25, 1972

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Koenig
COMMISSIONER

March 21, 1972

Francis C. Hand, Esq.
21 Roosevelt Road
Maplewood, New Jersey 07040


Re: Decision, Year 1967

Dear Mr. Hand:

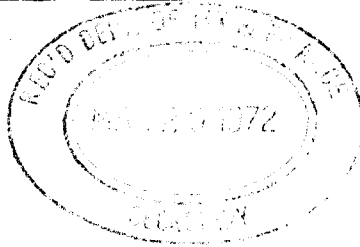
Your letter dated March 17, 1972, includes a petition to the State Tax Commission to reconsider its decision, dated February 25, 1972.

However, there is no provision in the Tax Law for this procedure. The review that you are seeking is afforded to a petitioner under the provisions of Article 78 of the Civil Practice Law and Rules. Such action should be commenced within four months of the date of the mailing of the decision.

Very truly yours,


Lawrence A. Newman
Hearing Officer

cc: Law Bureau



21 Roosevelt Road
Maplewood, N.J. 07040
March 17, 1972

Department of Taxation and Finance
Building 9, Room 214A
State Campus
Albany, New York 12226

Attention: Lawrence A. Newman - Hearing Officer

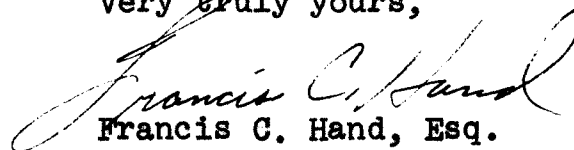
Dear Mr. Newman:

This is to acknowledge receipt of your letter dated February 25, 1972 and the decision of the State Tax Commission enclosed therewith.

Would you please submit any information that you have as to the manner in proceeding in Court to have the decision of the State Tax Commission reviewed.

Also, would you please submit the enclosed request for reconsideration of the decision of the State Tax Commission with the proper office.

Very truly yours,


Francis C. Hand, Esq.

Enclosure

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANCIS C. HAND :
:
for a Redetermination of a Deficiency or :
for refund of personal Income Taxes under :
Article 22 of the Tax Law for the year :
1967. :
:

REQUEST FOR RECONSIDERATION OF DECISION

It is respectfully requested that the decision of the State Tax Commission of February 25, 1972 be reconsidered.

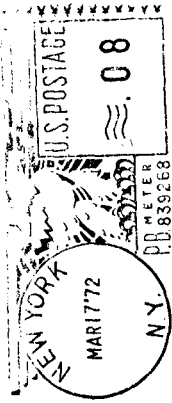
Further, it is requested that the Findings Of Fact be reconsidered.

With respect to Finding Of Fact 9, reference is made to the Petition signed on August 13, 1969 and referred to as Exhibit C at the formal hearing on January 19, 1971. In this Petition, page 5, lines 12 to 16 it is stated:

"that Petitioner's personal services carried out, in part, include personal services performed outside his home in the pursuit of said partnership's clients interests, and which constituted for 1967 approximately ten working days out of a total of 235 working days;"

This Statement of Fact on the part of Petitioner has never been controverted by the State Tax Commission. Therefore, it is believed that Finding Of Fact 9 is without foundation and is in error.

With respect to Finding Of Fact 10, such is not believed to be pertinent to the basic issue in this case. Fur-



Department of Taxation

Building 9, Room 214A

State Campus

Albany, New York 12226