

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES J. JR., and DIANE ALEXANDER

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

For a Redetermination of a Deficiency or  
a Refund of **Personal Income**  
Taxes under Article (X) 22 of the  
Tax Law for the Year(s) 1967 and 1968.:

State of New York  
County of Albany

JANET MACK, 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 16th day of December, 1975, she served the within  
Notice of Decision ~~XXXXXX~~ by (certified) mail upon CHARLES J. JR.,  
and DIANE ALEXANDER ~~XXXXXX~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. and Mrs. Charles J. Alexander, Jr.  
29 East Ferry Lane  
Westport, Connecticut 06880  
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 ~~XXXXXX~~  
~~XXX~~ 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

16th day of December, 1975.

Mary Hoff

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES J. JR., and DIANE ALEXANDER

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

For a Redetermination of a Deficiency or  
a Refund of **Personal Income**  
Taxes under Article ~~(X)~~ 22 of the  
Tax Law for the Year(s) 1967 and 1968.

State of New York  
County of Albany

JANET MACK, 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 16th day of December, 1975, she served the within  
Notice of Decision ~~XXXXXXXXXXXX~~ by (certified) mail upon JERRY J.

STROCHLIC, ESQ. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Jerry J. Strochlic, Esq.  
Sage, Gray, Todd & Sims  
140 Broadway  
New York, New York 10005

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

16th day of December, 1975.

Mary Stropp

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER

DATED: Albany, New York  
December 16, 1975

~~RECEIVED~~  
(518)457-3850

Mr. and Mrs. Charles J. Alexander, Jr.  
29 East Ferry Lane  
Westport, Connecticut 06880

Dear Mr. and Mrs. Alexander:

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

Please take further notice that pursuant to  
Section(s) **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from 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 relative  
hereto may be addressed to the undersigned.  
These will be referred to the proper party for  
reply.

Very truly yours,

**NIGEL C. WRIGHT**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
CHARLES J. JR., and DIANE ALEXANDER	:	DECISION
for a Redetermination of Deficiencies	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Years 1967 and 1968.	:	

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Charles J. Alexander, Jr. and Diane Alexander, 29 East Ferry Lane, Westport, Connecticut 06880, filed a petition under section 689 of the Tax Law for the redetermination of deficiencies of personal income taxes under Article 22 of the Tax Law for the years 1967 and 1968.

Said deficiency for 1967 was asserted by notice issued March 29, 1971, under file number 89178991 and is in the amount of \$3,287.64 plus interest of \$582.90 for a total of \$3,870.54.

Said deficiency for 1968 was asserted by notice issued under date of June 28, 1971, under file number 8-13224042 and is in the amount of \$1,640.92 plus interest of \$216.81 for a total of \$1,857.73.

A hearing was duly held on August 5, 1974, and December 18, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Jerry J. Storchlic, Esq. of Sage, Gray, Todd & Sims. The Income Tax Bureau was represented by Saul Heckelman, Esq. appearing by James A. Scott, Esq. and Alexander Weiss, Esq.

The record of said hearing has been duly examined and considered.

#### ISSUE

The issue in this case is whether salaries received from two corporations were properly allocated between New York sources and out-of-state sources.

#### FINDINGS OF FACT

1. Petitioners reside at 29 East Ferry Lane, Westport, Connecticut.
2. Mr. Alexander is primarily a textile designer. His activities are centered around a design studio he maintains at Westport, Connecticut. He has employees at the studio. In 1967, the studio was located on the top floor of his home which had been extensively renovated for this purpose. In 1968, the studio was moved to another building in the neighborhood. In 1967, Mr. Alexander's design activities were conducted by him personally. In 1968, the design studio was incorporated as

Charles Alexander Design Studios, Inc. of 299-A Riverside Avenue, Westport, Connecticut. Mr. Alexander's design activities apparently started during the years in question as a result of his work for the family business, Charles Alexander and Sons, Inc.

3. As a textile designer Mr. Alexander is responsible for the creative direction of the production of textile mills. This involved the selection of raw fiber, the creation of a line of colors, the development of dyes, the choice of the weight and texture of fabrics, the type of ~~stitch~~ and actual patterns. These had to be suitable for the machinery and processes of the particular mill. The designer must also participate in the supervision of the production at the mill.

4. During the years in question, the textile industry had to meet a demand for styles requiring coordinate colors for pieces of clothing ordinarily designed and produced independently. This required the cooperation between mills which ordinarily produce independently.

5. The salaries received by Mr. Alexander and which are here in issue were from two sources: Charles J. Alexander & Son, Inc. and Crown Alexander, Inc. In 1968, he also received a salary from Charles Alexander Design Studios, Inc. This is not included in the deficiency notice in issue. In addition in 1968, Mr. Alexander was an officer of Little Mills, Inc. of North Montpelier, Vermont, and of Highland Spun Mills, Inc. of 265 Main Street, Dexter, Maine. He received no salary from these companies.

6. The deficiency notice in issue allocates to New York 100% of the salary from Charles J. Alexander & Sons, Inc. and 12 1/2% of the salary from Crown Alexander, Inc. The petitions and the returns as filed allocated to New York only a small portion of the salary from Alexander and none of the salary from Crown.

7. Charles Alexander & Son of 161 West 54th Street, New York City is a manufacturers representative for textile manufacturers. Mr. Alexander, petitioner in this case, is its principal stockholder and its president. It has a staff of office help and of salesmen. Mr. Alexander's duties involved contact with suppliers and customers and supervision over salesmen. This corporation was founded by Mr. Alexander's father and both sales and design were integral parts of the business. The family name of Alexander has become very well regarded in the industry. Mr. Alexander, the petitioner here, had worked in sales and in mill work until the years here in question when the opportunity came for him to work as a designer. He worked as a designer both as an individual and as an employee of the corporation and did so in his studio in Connecticut. This corporation is willing to represent many principals. During the years in question, its most important supplier was Crown Alexander, Inc. of Dexter, Maine. Other suppliers were Little Mills, Inc. of North Montpelier, Vermont; Highland Spun Mills of Camden, Maine; Cheshire Mills, Harrisville, New Hampshire. Its other suppliers were also located outside of the State. Its principal customers

were John Meyer, Inc. of Norwich, Connecticut; Villager, Inc. of Philadelphia, Pennsylvania and Dean-Warburg Ltd. of London, England.

Mr. Alexander received a salary from Charles Alexander & Sons, Inc. of \$46,800 in 1967 and \$26,500 in 1968. In 1967, Mr. Alexander included in New York income only \$15,894.31 representing 90/265ths of his salary and in 1968 he included only \$7,827.00 representing 70/237ths of his salary. Mr. Alexander by his own testimony, the testimony of two employees and by travel records has shown that he spent most of his time outside of New York on visits to customers and suppliers. His time spent in New York was to supervise his salesmen and to visit and meet with competitors and buyers to keep informed of current trends. The number of days worked in New York as reported on Mr. Alexander's returns are adequate to account for his presence in New York. In addition, however, Mr. Alexander worked at his Connecticut studio.

9. Crown Alexander, Inc. of 265 Main Street, Dexter, Maine, is a fully integrated textile mill. It produces primarily Shetland and Cheviot types of woolens. Although this company bears Mr. Alexander's name, he has no financial interest in it. Mr. Alexander was chief executive officer and also served as a creative director and manufacturer's representative for Crown.



10. Mr. Alexander received a salary from Crown of \$53,623.94 in 1967 and \$26,988.15 in 1968. Mr. Alexander excluded all of this salary from his New York taxable income.

11. Both the returns as filed and the deficiency notice appear to allocate the two salaries separately. Mr. Alexander's return is calculated on the assumption that all of the days worked in the year were on the business of Charles Alexander & Son, Inc. and that about one-third of such days were worked in New York. Any time worked in Connecticut is counted as outside of New York.

12. The deficiency notice allocates the salary of Charles Alexander & Son, Inc. entirely to New York giving no credit for work done while traveling or while at the Connecticut studio. The salary from Crown is allocated one-eighth to New York but neither the precise numerator or denominator are given.

13. Mr. Alexander now estimates that in 1967, the 265 days he worked consisted of 85 days worked outside of New York on the business of Crown; 90 days worked in New York on the business of Charles Alexander & Son, Inc.; and 90 days worked either in Connecticut or while traveling both on the business of Charles Alexander & Son, Inc.

CONCLUSIONS OF LAW

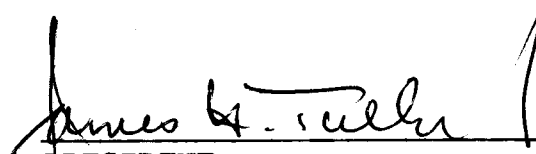
The salary received from Crown Alexander, Inc. was correctly reported on the return as entirely out-of-state income. There was no reason for Mr. Alexander to come to New York as an employee of Crown.

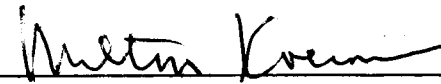
The salary received from Charles Alexander & Son, Inc. would be fairly allocated one-half to New York and one-half out of state.

The deficiency for 1967 is recomputed to be \$598.47 plus interest of \$106.11 to March 29, 1971. The deficiency for 1968 is recomputed to be \$229.87 plus interest of \$30.37 to June 28, 1971. Such sums are due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
December 16, 1975

STATE TAX COMMISSION

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
COMMISSIONER

\_\_\_\_\_  
COMMISSIONER