

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

WILLIAM F. JOYCE :

DECISION

for Redetermination of a Deficiency or :  
for Refund of Personal Income and Unin- :  
corporated Business Taxes under Articles :  
22 and 23 of the Tax Law for the Years :  
1960, 1961, 1962, 1963 and 1964. :

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Petitioner, William F. Joyce, residing at 9 the Spur, Port Washington, New York 11050, has filed a petition for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1960, 1961, 1962, 1963 and 1964. (File No. 00099).

A formal hearing was held before Sidney Burstein, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on March 17, 1976 at 1:15 P.M. Petitioner appeared by John J. Zureck, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq. (James A. Scott, Esq., of counsel).

ISSUES

I. Whether petitioner, William F. Joyce's activities as a motion picture producer and consultant during the years 1960 through 1964 constituted the carrying on of an unincorporated business.

II. Whether petitioner, William F. Joyce, filed New York State personal income and unincorporated business tax returns for the years 1960 through 1964.

III. What was the amount of petitioner, William F. Joyce's personal income and unincorporated business tax for the years 1960 through 1964.

FINDINGS OF FACT

1. Petitioner, William F. Joyce, failed to file New York State income tax returns or unincorporated business tax returns for the years 1960 through 1964.

2. On June 26, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, William F. Joyce, imposing personal income tax in the sum of \$2,666.56 and unincorporated business tax in the sum of \$1,375.77 for the years 1960 through 1964. It also imposed penalties in the sum of \$1,010.59 for failure to file personal income tax and unincorporated business tax returns for said years. The amount of taxes due for the years 1962 and 1963 were based on available information contained in Federal income tax returns. The amount of taxes due for the years 1960, 1961 and 1964 were based on estimated income. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$7,184.20.

3. Petitioner, William F. Joyce, failed to submit any documentatary or other substantial evidence to prove that he filed New York State income tax or unincorporated business tax returns for the years 1960 through 1964. Further, he failed to submit any documentary or other substantial evidence to prove that his income for 1960, 1961 and 1964 was different from the amount estimated by the Income Tax Bureau, or that his income for 1962 and 1963 was different from the amounts set forth in his personal income tax returns. His Federal income tax return for 1962 did not indicate a deduction for New York State income taxes paid.

4. Petitioner, William F. Joyce, was a self-employed motion picture producer and consultant during the years 1960 through 1964.

#### CONCLUSIONS OF LAW

A. That petitioner, William F. Joyce's activities as a motion picture producer and consultant during the years 1960 through 1964 constituted the carrying on of an unincorporated business in accordance with the meaning and intent of section 703 of the Tax Law. His activities did not constitute the practice of a profession exempt from the unincorporated business tax.

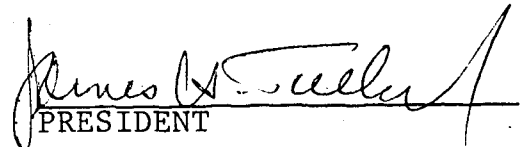
B. That petitioner, William F. Joyce, failed to pay New York State personal income tax due in the sum of \$2,666.56 and unincorporated business taxes due in the sum of \$1,375.77 for the years 1960 through 1964.

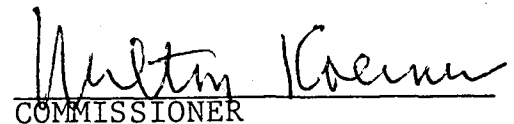
C. That penalties in the sum of \$1,010.59, for failure to file New York State personal income tax and unincorporated business tax returns for the years 1960 through 1964, were properly imposed upon petitioner, William F. Joyce.

D. That the petition of William F. Joyce is denied and the Notice of Deficiency issued June 26, 1972 is sustained.

DATED: Albany, New York  
November 23, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER