

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RUSSELL LANDON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the Year(s) ~~or Period(s)~~ 1971.:

State of New York
County of Albany

Bruce Batchelor, 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 26th day of April, 1977, she served the within
Notice of Decision by (certified) mail upon Russell Landon

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Russell Landon
128 Central Avenue
West Caldwell, New Jersey 07006

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 Postal Service within the State of New York.

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

26th day of April, 1977

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

April 26, 1977

TELEPHONE: (518) **457-1723**

Mr. Russell Landon
128 Central Avenue
West Caldwell, New Jersey 07006

Dear Mr. Landon:

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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Petitioner's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RUSSELL LANDON	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1971.	:	

Petitioner, Russell Landon, residing at 128 Central Avenue, West Caldwell, New Jersey 07006, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971 (File No. 1-73272669).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on September 13, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Russell Landon, appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

ISSUES

I. Was it proper for a member partner of a New York partnership to allocate his distributive share of partnership income for 1971 on his 1971 New York nonresident income tax return when the partnership did not allocate its income for such year?

II. Since the New York partnership of which petitioner was a member partner dissolved on June 30, 1971 and incorporated, was it proper for petitioner to allocate his salary income from the New York corporation on the basis of the days worked within and without New York State?

FINDINGS OF FACT

1. Petitioner, Russell Landon, filed a New York State nonresident income tax return for the year 1971.

2. On December 27, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Russell Landon, imposing additional income tax due upon the grounds that he improperly allocated his share of partnership income since the partnership did not allocate its income. In accordance with the aforesaid Statement of Audit Changes the Income Tax Bureau issued a Notice of Deficiency in the sum of \$591.95.

3. Petitioner, Russell Landon, was a partner of George H. Fischer Company, a partnership having its principal office in New York State, until June 30, 1971 at which time said partnership was incorporated under the name of George H. Fischer Co., Inc. The aforesaid partnership did not allocate its income during 1971.

4. Petitioner, Russell Landon, conceded that he was not entitled to allocate his share of partnership income in the amount of \$10,282.00. However, petitioner contended that he

should be allowed to allocate the salary income received as an employee of George H. Fischer Co., Inc. in the amount of \$6,317.00 on the basis of the days he worked within and without New York State for such corporation in 1971. Of this total salary income received from the corporation in 1971 of \$6,317.00, 14.0969 percent or \$890.00 was allocable to New York State on the basis of days worked within and without New York State.

CONCLUSIONS OF LAW

A. That petitioner's distributive share of partnership income from George H. Fischer Company in the amount of \$10,282.00 was includible in computing his New York adjusted gross income for 1971 in accordance with the meaning and intent of section 637(a) of the Tax Law and 20 NYCRR 134.1.

B. That \$890.00 of the total salary income received by petitioner from George H. Fischer Co., Inc. in 1971 was allocable to New York State and includible in computing his New York adjusted gross income for 1971 within the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

C. That the petition of Russell Landon is granted to the extent of reducing the personal income tax due for the year 1971 from \$502.66 to \$128.29 together with such interest as may be lawfully due; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued

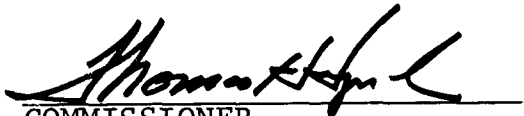
March 31, 1975, and, that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
April 26, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER