

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Lorrin C. Mawdsley :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of  
Personal Income Tax :  
under Article 22 of the Tax Law  
for the Years 1966 - 1969. :

State of New York  
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of November, 1980, he served the within notice of Decision by certified mail upon Lorrin C. Mawdsley, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Lorrin C. Mawdsley  
100 S. Berkley Sq.  
Atlantic City, NJ 08401

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
14th day of November, 1980.

Deborah A. Bark

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

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Personal Income Tax :  
under Article 22 of the Tax Law  
for the Years 1966 - 1969. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 14th day of November, 1980, he served the within notice of Decision by certified mail upon E. E. Finucan the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. E. E. Finucan  
10 E. 40th St.  
New York, NY 10016

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  
14th day of November, 1980.

Deborah A. Bank

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION  
ALBANY, NEW YORK 12227

November 14, 1980

Lorrin C. Mawdsley  
100 S. Berkley Sq.  
Atlantic City, NJ 08401

Dear Mr. Mawdsley:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
E. E. Finucan  
10 E. 40th St.  
New York, NY 10016  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
LORRIN C. MAWDSLEY	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1966 through 1969.	:	

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Petitioner, Lorrin C. Mawdsley, 100-S. Berkley Square, Atlantic City, New Jersey 08401, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1966 through 1969 (File No. 01770).

A formal hearing was held before Nigel Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 17, 1975 at 1:20 P.M. and continued on August 5, 1976 at 9:15 A.M. The hearing was continued to conclusion before Edward L. Johnson, Hearing Officer, on June 24, 1977 at 12:40 P.M. Petitioner appeared by E. E. Finucan, CPA. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioner was required to add to Federal adjusted gross income his share of the New York City unincorporated business tax deduction taken on the partnership return of Van Alstyne, Noel & Co.

FINDINGS OF FACT

1. Petitioner timely filed New York State income tax resident returns for 1966 through 1969. In arriving at his New York adjusted gross income, he did not increase his Federal adjusted gross income by his distributive share

of the New York City unincorporated business tax deduction taken on the partnership return of Van Alstyne, Noel & Co.

2. Petitioner signed consents fixing period of limitation upon assessment of personal income and unincorporated business taxes, which consents extended the period for assessment of personal income tax for 1963 through 1969 until April 15, 1974. There were no audit changes made for 1963, 1964 and 1965.

3. On November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency for years 1966 through 1969 asserting personal income tax of \$1,332.00, penalty, pursuant to section 685(c) of the Tax Law, for 1967 and 1969 of \$74.00, and interest of \$328.14, for a total sum of \$1,734.14. For 1968, a refund, based on a net operating loss carryback from 1971, was computed and used to offset the tax due for 1966, 1967 and 1969.

4. Petitioner filed a "Notice of Change in Taxable Income by United States Treasury Department Pursuant to Section 659 of the New York State Tax Law" for 1966 and 1967 and paid therewith the sum of \$906.36.

#### CONCLUSIONS OF LAW

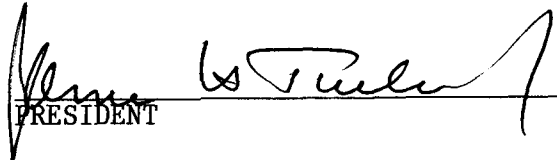
A. That the New York City unincorporated business tax is an income tax for which deduction shall be allowed under section 706(4) of Article 23 of the Tax Law, which refers to computation of New York State unincorporated business tax. For purposes of personal income tax, Article 22 is applicable, which article requires a modification increasing Federal adjusted gross income by adding back income taxes imposed by this or any other state or taxing jurisdiction; therefore, New York City unincorporated business tax was not deductible in computing New York State personal income tax in accordance with the meaning and intent of section 612(b)(3) of the Tax Law.

B. That the petition of Lorrin C. Mawdsley is denied and the Notice of Deficiency issued November 26, 1973 is sustained.

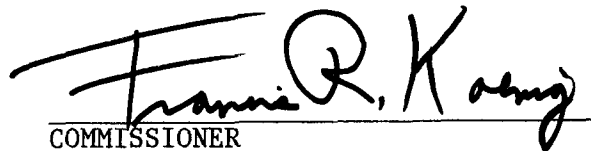
DATED: Albany, New York

STATE TAX COMMISSION

NOV 14 1980

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER