

[fol. 29] Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to the Assistant Regional Commissioner, Appellate, Room 100, Elks Club Building, 108 So. 18 Street, Omaha 2, Nebraska. The signing and filing of this form will expedite the closing of your return(s) by permitting an early assessment of the deficiency or deficiencies, and will prevent the accumulation of interest, since the interest period terminates 30 days after receipt of the form, or on the date of assessment, or on the date of payment, whichever is earlier.

Very truly yours,

Russell C. Harrington, Commissioner, By Ray H. Johnson, Associate Chief Appellate.

Enclosures:

Statement
IRS Pub 160 (Rev)
Agreement Form

ORL-6-14-1
April 1957

57-2825 IRS-Omaha, Nebraska

ATTACHMENT

Statement

Mark E. Schlude and Marzalie Schlude,
Husband and Wife
459 Beverly Drive
Omaha, Nebraska

Income Tax

Year	Deficiency
1953	\$83,395.82
1954	11,544.32
Total	\$94,940.14

[fol. 30] In making this determination of your income tax liability, careful consideration has been given to the report of examination dated July 3, 1956; to your protest received August 31, 1956; and to the statements made in the conferences held on November 20, 1956, and April 9, 1957.

A copy of this letter and statement has been mailed to your representative, Mr. Robert Ash, 1921 Eye Street, N. W., Washington 6, D. C., in accordance with the authority contained in the power of attorney executed by you.

Taxable Year Ended December 31, 1953

Schedule 1

Adjustments to Net Income

Net income as disclosed by return	\$ 58,222.49
Additional income and unallowable deductions:	
(a) Partnership income	\$108,398.41
(b) Unreported income	2,100.00
	110,498.41
Corrected net income	\$168,720.90

Schedule 2

Explanation of Adjustments

(a) Examination of the books and records of the partnership of Arthur Murray Dance Studio discloses that your share of the distributable income for the taxable year ended March 31, 1953, is \$159,194.77. Inasmuch as you reported \$50,796.36, your taxable income has been increased by the difference, \$108,398.41, computed as follows:

[fol. 31]

Ordinary net income shown on partnership return	\$ 50,796.36
Add:	
Unallowable deductions and additional income	
(1) Additional income	\$104,798.41
(2) Nonallowable deductions	3,600.00

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Corrected Arthur Murray Dance Studio partnership ordinary net income	\$459,194.77
Mark Schlude's distributive share	\$ 79,597.39
Marzalie Schlude's " "	79,597.38
Total	\$459,184.77
Arthur Murray Dance Studio partnership ordinary income reported on your return:	
Mark E. Schlude	\$25,398.18
Marzalie Schlude	25,398.18
	50,796.36
Understatement	\$108,398.41

Explanation of partnership adjustments:

(1) Ordinary income is increased by the amount of \$104,798.41, computed as follows:	
Deferred income not reported 2/31/53	\$235,942.33
" " " 3/31/52	134,143.92
Adjustment to income	\$104,798.41

Your contention that the foregoing deferred income is not taxable in the taxable year ended March 31, 1953, is denied.

(2) Unallowable expense of partnership:

Partnership expense is reduced for personal use of automobile	\$ 1,200.00
Personal expense of partners included in partnership expense	2,400.00
Total	\$ 3,600.00

[fol. 32] (b) It is held that you have unreported income of \$2,100.00; therefore, your taxable income is increased by this amount.

Schedule 3

Computation of Tax

Net income, Schedule 1	\$168,720.90
Less: Exemptions (2)	1,200.00
Income subject to tax	\$167,520.90

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One-half of \$167,520.90 (joint computation)	\$ 83,760.45
Tax on \$83,760.45	\$56,112.38
Total tax (\$56,112.38 × 2)	\$112,224.76
Computative of Alternative Tax (Joint Computation)	
One-half income, subject to tax	\$ 83,760.45
Less: One-half excess of net long-term capital gain over net short-term loss	4,034.35
Balance	\$ 79,726.10
Tax on \$79,726.10	\$52,688.86
Plus: 52% of \$4,034.35, net long-term capital gain	2,097.86
Tentative tax	\$54,786.52
Alternative tax (\$54,786.52 multiplied by 2)	\$109,573.04
Income tax liability	\$109,573.04
Plus: Self-employment tax (as shown by return—not changed)	162.00
Total tax liability	\$109,735.04
Tax liability shown by return, Orig. Acct. No. AF 1000221	26,339.22
Deficiency of income tax	\$ 83,395.82

[fol. 33]

Taxable Year Ended December 31, 1954

Schedule 4

Adjustments to Taxable Income

Taxable income as disclosed by return	\$ 68,284.97
Additional income and unallowable deductions:	
(a) Partnership income	\$16,397.97
(b) Depreciation adjustment	785.12
	17,183.09
Corrected taxable income	\$ 85,468.06

Schedule 5

Explanation of Adjustments

(a) Examination of the books and records of the Arthur Murray Dance Studio discloses that your share of the distributable income for the taxable year ended March 31, 1954, is \$85,491.10. Inasmuch as you reported \$69,093.13, your taxable income has been increased by the difference, \$16,397.97, computed as follows:

Ordinary net income shown on partnership return	\$ 69,093.13
Add:	
(1) Additional income	12,797.97
(2) Nonallowable deduction	3,600.00
Corrected Arthur Murray Dance Studio partnership ordinary net income	\$ 85,491.10
Mark E. Schlude's distributive share	\$ 42,745.55
Marzalie Schlude's	42,745.55
Total	\$ 85,491.10

Arthur Murray Dance Studio partnership ordinary income reported on your return:

Mark E. Schlude	\$34,546.57	
Marzalie Schlude	34,546.56	69,093.13

Understatement \$ 16,397.97

[fol. 34] Explanation of partnership adjustments:

(1) Ordinary income is increased by the amount of \$12,797.97, computed as follows:

Deferred income not reported 3/31/54	\$248,740.30
3/31/53	235,942.33

Adjustment to income \$ 12,797.97

Your contention that the foregoing deferred income is not taxable in the taxable year ended March 31, 1954, is denied.

(2) Unallowable expenses of partnership:

Partnership expense is reduced for personal expense of automobile	\$ 1,200.00
Personal expense of partners included in partnership expenses	2,400.00
Total	\$ 3,600.00

(b) The sum of the years-digits method of computing depreciation is not applicable to property constructed prior to 1954. Therefore, the depreciation allowable on your building has been recomputed using the straight-line method as follows:

Item	Date Acquired	Cost	Life	Depreciation Allowable
Building	10-1-54	\$97,704.80	40 years	\$610.66 (1/4 yr.)
Depreciation allowable				\$ 610.66
Claimed on return				1,295.78
Amount not allowable				\$ 785.12

[fol. 35]

Schedule 6

Computation of Tax

Taxable income, Schedule 4	\$ 85,468.06
One-half of \$85,468.06	\$ 42,734.03
Tax on \$42,734.03	\$21,626.48
Total tax (\$21,626.48 × 2)	\$ 43,252.96

Computation of Alternative Tax (Joint Computation)

One-half taxable income	\$ 42,734.03
Less: One-half excess of net long-term gain over net short-term loss	42.66
Balance	\$ 42,691.37

Tax on \$42,691.37	\$21,597.05
Plus: 50% of \$42.66, net long-term capital gain	21.33
Tentative tax	\$21,618.38
Alternative tax (\$21,618.38 multiplied by 2)	\$ 43,236.76
Income tax liability	\$ 43,236.76
Plus: Self-employment tax (as shown by return—not changed)	216.00
Total tax liability	\$ 43,452.76
Tax liability shown by return, Orig. Acct. No. AC 1000048	31,908.44
Deficiency of income tax	\$ 11,544.32

IN THE TAX COURT OF THE UNITED STATES

ANSWER OF COMMISSIONER OF INTERNAL REVENUE
IN DOCKET NO. 69-93—Filed October 4, 1957

The Respondent, in answer to the petition filed in the above-entitled case, admits, denies and alleges as follows:

[fol. 36]

I.

Admits the allegations of paragraph I of the petition.

II.

Admits the allegations of paragraph II of the petition and alleges that the notice of deficiency was mailed to petitioners on July 2, 1957.

III.

Admits the allegations of paragraph III of the petition.

IV.

A. to F., inclusive. Denies the allegations of error contained in subparagraphs A to F, inclusive, of paragraph IV of the petition.

V.

A. and B. Admits the allegations of subparagraphs A and B of paragraph V of the petition.

C. to G., inclusive. Denies the allegations of subparagraphs C to G, inclusive, of paragraph V of the petition.

VI.

Denies generally each and every allegation of the petition not hereinbefore specifically admitted, qualified or denied.

Wherefore, it is prayed that the deficiencies determined by the respondent be in all respects approved.

Nelson P. Rose, Chief Counsel, Internal Revenue Service.

Of Counsel, Douglas L. Barnes, Regional Counsel, Richard C. McLaughlin, Acting Special Assistant to the Regional Counsel, Internal Revenue Service, 100 Elks Club Building, Omaha, Nebraska.

[fol. 37]

IN THE TAX COURT OF THE UNITED STATES

Docket No. 62109

MARK E. SCHLUDE and MARZALIE SCHLUDE, Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

Docket No. 69591

MARK E. SCHLUDE, Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

Docket No. 69592

MARZALIE SCHLUDE, Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

Docket No. 69593

MARK E. SCHLUDE and MARZALIE SCHLUDE, Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

STIPULATION OF FACTS IN DOCKET NOS. 62109, 69591,
69592 AND 69593—Filed March 24, 1958It is hereby stipulated that, for the purpose of these
cases, the following statements may be accepted as facts

and all exhibits referred to herein and attached hereto are incorporated in this stipulation and made a part hereof, [fol. 38] subject to the right of either party to object to the admission of such facts or exhibits in evidence on the grounds of materiality and relevancy; provided, however, that either party may introduce other and further evidence not inconsistent with the facts herein stipulated.

1. Petitioners are husband and wife and now reside at 459 Beverly Drive, Omaha, Nebraska. The returns for the years here involved were filed with the office of the now District Director of Internal Revenue (formerly Collector or Director of Internal Revenue) for the District of Nebraska.

2. On June 18, 1946, the petitioners formed a partnership for the purpose of conducting Arthur Murray Dance Studios in territories authorized by various franchise agreements received from Arthur Murray, Inc., New York, New York. The location of the various studios being operated and the date of their formation is as follows:

Location	Date of Formation
Omaha, Nebraska	June 18, 1946
Lincoln, Nebraska	September 20, 1948
Sioux City, Iowa	October 1, 1949
Sioux Falls, South Dakota	June 1, 1952
Grand Island, Nebraska	October 3, 1953

3. The partnership maintains its books of account on fiscal years ending March 31st and uses the accrual method of accounting. The partners, petitioners herein, report their income on a calendar year basis and use the cash basis of accounting.

4. Attached hereto are photostatic copies of U. S. Partnership Return of Income for the taxable years ending March 31, 1949 to March 31, 1954, inclusive, which are marked Exhibits 1-A to 6-F, inclusive.

5. Attached hereto are photostatic copies of petitioners' United States Individual Income Tax Returns, which are marked as follows:

MICRO CARD 22

TRADE MARK 

1406



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[fol. 39] Mark E. Schlude and Marzalie

Schlude—1950	Exhibit 7-G
Mark E. Schlude—1951	Exhibit 8-H
Marzalie Schlude—1951	Exhibit 9-I
Mark E. Schlude—1952	Exhibit 10-J
Marzalie Schlude—1952	Exhibit 11-K
Mark E. and Marzalie Schlude —1953	Exhibit 12-L
Mark E. and Marzalie Schlude —1954	Exhibit 13-M

6. Attached hereto and marked Exhibit 14-N is a schedule entitled "Schedule Reflecting Contract Amount of Deferred Income and Amount of Deferred Income Collected and Uncollected at End of Each Fiscal Year." This schedule shows for the fiscal years ended March 31, 1950 to March 31, 1954, inclusive, Contract Amount of Deferred Income, Students Accounts Receivable, Reserve Fund Held by Bank, Deferred Income Collected (considering reserve fund held by bank as collected) and Deferred Income Collected (considering reserve fund held by bank as not collected until funds are released and made available for withdrawal by bank).

7. Petitioners are equal partners in the partnership known as Arthur Murray Dance Studio.

8. When a student engaged the studio to teach dancing lessons, the student and the studio executed one of the six forms of contracts attached hereto and marked Exhibits 15-O to 20-T.

9. If the contract executed was on a form entitled "Deferred Payment Enrollment Agreement and Contract With Student for Instruction", attached hereto and marked Exhibit 18-R, or on a form entitled "Deferred Payment Extension Agreement and Contract With Student for Instruction" attached hereto and marked Exhibit 19-S, or on a form entitled "Deferred Payment Renewal Agreement and Contract with Student for Instruction", marked Exhibit 20-T, then the student also executed, at the time of signing the contract, a note on a form such as is attached hereto and marked Exhibit 21-U.

[fol. 40] 10. At the time a student's note, referred to in paragraph 9 above, was transferred to the bank, the bank would deduct its interest charges and give approximately 50% of the balance of the note to the partnership and set up a reserve account for the other 50% of the note which the partnership could not use. After the note was paid in full by the student, the balance in the reserve account was transferred to the partnership's general bank account.

11. Cash payments received by the partnership directly from students, the amounts received by the partnership at the time notes were transferred to the bank and the amounts received by the partnership when notes transferred to the bank were fully paid, were either deposited or credited to a partnership general bank account without segregation from other partnership funds.

12. Income as reflected in the partnership books and returns for the fiscal years ended March 31, 1950 through March 31, 1954, included gains on cancellations of students' contracts as follows:

3/31/50	3/31/51	3/31/52	3/31/53	3/31/54
\$5,376.93	\$9,997.44	\$26,861.40	\$19,483.36	\$28,448.31

13. Unpaid balances on notes held by bank for the fiscal years ended March 31, 1950 through March 31, 1954, were as follows:

	3/31/50	3/31/51	3/31/52	3/31/53	3/31/54
Ending Balance	\$13,783.78	\$ 1,842.10	\$9,618.00	\$10,627.96	\$23,440.75
Beginning Balance	17,237.71	13,783.78	1,842.10	9,618.00	10,627.96

Robert Ash, Counsel for Petitioners.

Arch M. Cantrall, Chief Counsel, Internal Revenue Service, Counsel for Respondent.

COMPUTAT.

451-RC 36021

UNITED STATES

FORM 1065
Treasury Department
Internal Revenue Service

PARTNERSHIP RETURN OF INCOME

1948

(To be Filed Also by Syndicates, Pools, Joint Ventures, Etc.)

For Calendar Year 1948

or fiscal year beginning 1948, and ending 1949

(File this return with the Collector of Internal Revenue not later than the 15th day of the 1st month following the close of the taxable year)

(PRINT PLAINLY NAME AND BUSINESS ADDRESS OF THE ORGANIZATION)

Arthur Murray Dance Studio

309 South 19th Street

Omaha

Douglas

Nebraska

(City, town, or post office)

(Postal zone number)

(State)

Business or Profession

Instruction of Ballroom

Do Not Use These Spaces

File Code

Serial No.

8851301

District

(Date Received)

16 1948

U.S. REURB

Item and
Instruction No.

GROSS INCOME

1. Gross receipts from business or profession.....
2. Less cost of goods sold:
 - (a) Inventory at beginning of year.....
 - (b) Merchandise bought for sale.....
 - (c) Cost of labor, supplies, etc.....
 - (d) Total of lines (a), (b), and (c).....
 - (e) Less inventory at end of year.....
3. Gross profit (or loss) from business or profession (item 1 less item 2).....
4. Income (or loss) from other partnerships, syndicates, pools, etc. (State separately name, address, and amount).....
5. Interest on bank deposits, notes, corporation bonds, etc. (except interest to be reported in item 6).....
6. Interest on tax-free covenant bonds upon which a Federal tax was paid at source.....
7. Interest on Government obligations, etc., unless wholly exempt from tax.....
8. Rents.....
9. Royalties.....
10. Net gain (or loss) from sale or exchange of property other than capital assets (from line 2, Schedule A).....
11. Dividends.....
12. Other income (State nature of income).....
13. Total income in items 3 to 12.....

113,605 06

113,605 06

589 83

114,284 91

DEDUCTIONS

14. Salaries and wages (do not include compensation for partners).....
15. Rent.....
16. Repairs.....
17. Interest on indebtedness (explain in Schedule E; do not include interest on capital invested in the business by any partner).....
18. Taxes (explain in Schedule E).....
19. Losses by fire, storm, shipwreck, or other casualty, or theft (attach schedule).....
20. Bad debts (explain in Schedule E).....
21. Depreciation (explain in Schedule E).....
22. Amortization of emergency facilities (attach statement).....
23. Depletion of mines, oil and gas wells, timber, etc. (attach schedule).....
24. Other deductions authorized by law (explain in Schedule E).....
25. Total deductions in items 14 to 24.....
26. Ordinary net income (item 13 less item 25).....

32,432 51

5,339 51

124 00

75 00

5,107 00

117 00

5,723 00

37,630 23

50,394 02

53,690 00

27. Net short-term capital gain (or loss) (from line 4, Schedule C).....

28. Net long-term capital gain (or loss) (from line 8, Schedule C).....

[Vol. 41] ENHANCED REPRODUCTION OF FORMS