

[fol. 8] B. The Commissioner erred in determining that the petitioner's share of the distributable income of the partnership, Arthur Murray Dance Studio, for the year 1952 was \$32,893.28.

C. The Commissioner erred in determining that petitioner's income should be increased by the amount of \$24,602.22, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1952.

V.

The facts upon which petitioner relies as the basis for this proceeding are:

A. On June 18, 1946, the petitioner and his wife 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. By the year 1950, the partnership had established dance studios in Omaha, Nebraska, Lincoln, Nebraska, and Sioux City, Iowa.

B. The partnership maintains its books of account on a fiscal year ending March 31 and uses the accrual method of accounting. The partners report their income on a calendar-year basis.

C. During the fiscal year ended March 31, 1950, the partnership, Arthur Murray Dance Studio, contracted with students to give them a course of dance instruction. Some of the contracts extended beyond the end of the taxable year in which the contract was made.

D. Students paid the partnership either in cash or by cash and deferred payments.

E. The partnership, using the accrual method of accounting, kept its books of account and reported the income it received from the dancing business when it was earned.

F. The method of accounting employed by the partnership clearly reflects its true income.

[fol. 9] G. All items of gross income and deductions have been treated consistently since the commencement of the partnership business on June 18, 1946.

Wherefore, the petitioner prays that this Court may hear the proceeding and:

A. Determine that the Commissioner erred in increasing petitioner's "partnership income" in the amount of \$14,101.12 for the year 1952.

B. Determine that the Commissioner erred in determining that the petitioner's share of the distributable income of the partnership, Arthur Murray Dance Studio, for the year 1952 was \$32,893.28.

C. Determine that the Commissioner erred in determining that petitioner's income should be increased by the amount of \$24,602.22, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1952.

D. Grant such other and further relief as the Court may deem proper.

Robert Ash, 1921 Eye Street, N. W., Washington 6,
D. C., Attorney for Petitioner.

Duly sworn to by Mark E. Schlude, jurat omitted in printing.

[fol. 10]

ATTACHMENT TO PETITION

U. S. Treasury Department
Internal Revenue Service
Regional Commissioner
Omaha 2, Nebraska

In Replying Refer To:

RC:OMA(OMA):Ap
WEF:BCR:bmb

Mr. Mark E. Schlude
459 Beverly Drive
Omaha, Nebraska

Dear Mr. Schlude:

You are advised that the determination of your income tax liability for the taxable year ended December 31, 1952, discloses a deficiency in tax of \$9,264.69, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days from the date of the mailing of this letter you may file a petition with The Tax Court of the United States, at its principal address, Washington 4, D. C., for a redetermination of the deficiency. In counting the 90 days you may not exclude any day unless the 90th day is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event that day is not counted as the 90th day. Otherwise, Saturdays, Sundays, and legal holidays are to be counted in computing the 90-day period.

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 [fol. 11] 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
459 Beverly Drive
Omaha, Nebraska

Income Tax

Year

Deficiency

1952.....

\$9,264.69

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.

Schedule 1

Adjustments to Net Income

Net income as disclosed by return	\$20,245.79
Additional income and unallowable deductions:	
(a) Partnership income	14,101.12
Corrected net income	<u>\$34,346.91</u>

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, 1952, is \$32,893.28. Inasmuch as you reported \$18,792.16, your taxable income has been increased by the difference, \$14,101.12, computed as follows:

Ordinary net income on the partnership return ..\$ 67,584.33

Add:

Unallowable deductions and additional income

(1) Additional income	24,602.22
(2) Nonallowable deductions	3,600.00

Corrected partnership ordinary income\$ 65,786.55

Your distributable share **\$ 32,893.28**

As reported on Form 1040 18,792.16

Increase **\$ 14,101.12**

Explanation of partnership adjustments:

(1) Ordinary income is increased by the amount of \$24,602.22, computed as follows:

Deferred income not reported 3/31/52.....	\$131,143.92
" " " " 3/31/51.....	106,541.70

Adjustment to income\$ 24,602.22

(2) Unallowable expenses of partnership:

Partnership expenses are reduced for personal use of automobile \$ 1,200.00

Personal expenses of partners included in partnership expenses	2,400.00
--	----------

Total \$ 3,600.00

Schedule 3

Computation of Tax

Net income, Schedule 1	\$ 34,346.91
Less: Exemptions (1)	600.00

Income subject to tax :	\$ 33,746.91
Tax liability (tentative)	\$ 17,203.90

Computation of Alternative Tax:

Income subject to tax	\$ 33,746.91
Less: One-half excess of net long-term capital gain over net short-term capital loss	357.67

Balance	\$ 33,389.24
Tax on \$33,389.24	\$ 16,960.68
Plus: 52% of \$357.67	185.99

Alternative Tax	\$ 17,146.67
Income Tax Liability	\$ 17,146.67
Plus: Self-employment tax (as shown by return, not changed)	81.00

Total tax liability	\$ 17,227.67
Tax liability shown by return, Orig. Acct. No. AF 703637	7,962.98

Deficiency of income tax : \$ 9,264.69

[fol. 14]

IN THE TAX COURT OF THE UNITED STATES

ANSWER OF COMMISSIONER OF INTERNAL REVENUE IN DOCKET
No. 69591—Filed October 4, 1957

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

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 petitioner on July 2, 1957.

III.

Admits the allegations of paragraph III of the petition.

IV.

A., B. and C. Denies the allegations of error contained in subparagraphs A, B and C 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.

[fol. 15] Wherefore, it is prayed that the deficiency 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.

IN THE TAX COURT OF THE UNITED STATES

Docket No. 69592

MARZALIE SCHLUDE, Petitioner,

V.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

PETITION OF MARZALIE SCHLUDE IN DOCKET NO. 69592—
Filed August 29, 1957

The above-named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (RC:OMA(OMA):Ap WEF:BCR:mbb) dated July 2, 1957, and as a basis of this proceeding alleges as follows:

[fol. 16]

I.

Petitioner is an individual whose address is 459 Beverly Drive, Omaha, Nebraska. The return for the year here involved was filed with the District Director of Internal Revenue, Omaha, Nebraska.

II.

The notice of deficiency, a copy of which is attached hereto and made a part of this petition by reference, is dated July 2, 1957.

III.

The tax in controversy is income tax for the year 1952 in the total amount of \$8,971.55.

IV.

The determination of tax set forth in said notice of deficiency is based upon the following errors:

A. The Commissioner erred in increasing petitioner's "partnership income" in the amount of \$14,101.10 for the year 1952.

B. The Commissioner erred in determining that the petitioner's share of the distributable income of the partnership, Arthur Murray Dance Studio, for the year 1952 was \$32,893.27.

C. The Commissioner erred in determining that petitioner's income should be increased by the amount of \$24,602.22, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1952.

V.

The facts upon which petitioner relies as the basis for this proceeding are:

A. On June 18, 1946, the petitioner and her husband formed a partnership for the purpose of conducting Arthur [fol. 17] Murray Dance Studios in territories authorized by various franchise agreements received from Arthur Murray, Inc., New York, New York. By the year 1950, the partnership had established dance studios in Omaha, Nebraska, Lincoln, Nebraska, and Sioux City, Iowa.

B. The partnership maintains its books of account on a fiscal year ending March 31 and uses the accrual method of accounting. The partners report their income on a calendar-year basis.

C. During the fiscal year ended March 31, 1950, the partnership, Arthur Murray Dance Studio, contracted with students to give them a course of dance instruction. Some of the contracts extended beyond the end of the taxable year in which the contract was made.

D. Students paid the partnership either in cash or by cash and deferred payments.

E. The partnership, using the accrual method of accounting, kept its books of account and reported the income it received from the dancing business when it was earned.

F. The method of accounting employed by the partnership clearly reflects its true income.

G. All items of gross income and deductions have been treated consistently since commencement of the partnership business on June 18, 1946.

Wherefore, the petitioner prays that this Court may hear the proceeding and:

A. Determine that the Commissioner erred in increasing petitioner's "partnership income" in the amount of \$14,101.10 for the year 1952.

B. Determine that the Commissioner erred in determining that the petitioner's share of the distributable income of the partnership, Arthur Murray Dance Studio, for the year 1952 was \$32,893.27.

C. Determine that the Commissioner erred in determining that petitioner's income should be increased by the [fol. 18] amount of \$24,602.22, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1952.

D. Grant such other and further relief as the Court may deem proper.

Robert Ash, 1921 Eye Street, N. W., Washington 6,
D. C., Attorney for Petitioner.

Duly sworn to by Marzalie Schlude, jurat omitted in printing.

ATTACHMENT TO PETITION

U. S. Treasury Department
Internal Revenue Service
Regional Commissioner
Omaha 2, Nebraska

In Reply, Refer To:

RC:OMA(OMA):Ap
WEF:BCR:bmb

Mrs. Marzalie Schlude
459 Beverly Drive
Omaha, Nebraska

Dear Mrs. Schlude:

You are advised that the determination of your income tax liability for the taxable year ended December 31, 1952, [fol. 19] discloses a deficiency in tax of \$8,971.55, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days from the date of the mailing of this letter you may file a petition with The Tax Court of the United States, at its principal address, Washington 4, D. C., for a redetermination of the deficiency. In counting the 90 days you may not exclude any day unless the 90th day is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event that day is not counted as the 90th day. Otherwise, Saturdays, Sundays, and legal holidays are to be counted in computing the 90-day period.

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, 109 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 defi-

ciency 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

[fol. 20]

ATTACHMENT

Statement

Marzalie Schlude
459 Beverly Drive
Omaha, Nebraska

Income Tax

Year	Income Tax	Deficiency
1952		\$8,971.55

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, 1952

Schedule 1

Adjustments to Net Income

Net income as disclosed by return	\$20,592.34
Additional income and unallowable deductions:	
(a) Partnership income	14,101.10
Corrected net income	<u>\$34,693.44</u>

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, 1952, is \$32,893.27. Inasmuch as you reported [fol. 21] \$18,792.17, your taxable income has been increased by the difference, \$14,101.10, computed as follows:

Ordinary net income on the partnership return	\$ 37,584.33
Add:	
Unallowable deductions and additional income	
(1) Additional income	24,602.22
(2) Nonallowable deductions	3,600.00
Corrected partnership ordinary income	\$ 65,786.55
Your distributable share	\$ 32,893.27
As reported on Form 1040	18,792.17
Increase	\$ 14,101.10

Explanation of partnership adjustments:

(1) Ordinary income is increased by the amount of \$24,602.22, computed as follows:

Deferred income not reported 3/31/52	\$131,143.92
" " " " 3/31/51	106,541.70

Adjustment to income **\$ 24,602.22**

Your contention that the foregoing deferred income is not taxable in the taxable year ended March 31, 1952, is denied.

(2) Unallowable expenses of partnership:

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

[fol. 22]

Schedule 3

Computation of Tax

Net income, Schedule 1	\$ 34,693.44
Less: Exemptions (1)	600.00

Income subject to tax	\$ 34,093.44
Tax liability (tentative)	\$ 17,439.54

Computation of Alternative Tax:

Income subject to tax	\$34,093.44
Less: One-half excess of net long-term capital gain over net short-term loss	3,594.10

Balance	\$ 30,499.34
Tax on \$30,499.34	\$ 15,010.56
Plus: 52% of \$3,594.10	1,868.93

Alternative tax	\$ 16,879.49
Income tax liability	\$ 16,879.49
Plus: Self-employment tax (as shown by return— not changed)	81.00

Total tax liability	\$ 16,960.49
Tax liability shown by return, Orig. Acct. No.	
AF 702686	7,988.94

Deficiency of income tax \$ 8,971.55

IN THE TAX COURT OF THE UNITED STATES

ANSWER OF COMMISSIONER OF INTERNAL REVENUE
IN DOCKET No. 69592—Filed October 4, 1957

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

I.

Admits the allegations of paragraph I of the petition.

[fol. 23]

II.

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

III.

Admits the allegations of paragraph III of the petition.

IV.

A., B. and C. Denies the allegations of error contained in subparagraphs A, B and C 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 deficiency 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. 24]

IN THE TAX COURT OF THE UNITED STATES

Docket No. 69593

MARK F. SCHLUDE AND MARZALIE SCHLUDE,
Husband and Wife, Petitioners,

v.

COMMISSIONER OF INTERNAL REVENUE, Respondent.

PETITION OF MARK F. SCHLUDE AND MARZALIE SCHLUDE
IN DOCKET No. 69593—Filed August 29, 1957

The above-named petitioners hereby petition for a re-determination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (RC:OMA(OMA):Ap WEF:BCR:bmb), dated July 2, 1957, and as a basis of their proceeding allege as follows:

I.

Petitioners are husband and wife whose address is 459 Beverly Drive, Omaha, Nebraska. The returns for the years here involved were filed with the District Director of Internal Revenue, Omaha, Nebraska.

II.

The notice of deficiency, a copy of which is attached hereto and made a part of this petition by reference, is dated July 2, 1957.

III.

The taxes in controversy are income taxes for the years 1953 and 1954 in the total amount of \$94,940.14, the detail of which is as follows:

[fol. 25]

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

IV.

The determination of tax set forth in said notice of deficiency is based upon the following errors:

A. The Commissioner erred in increasing petitioners' "partnership income" in the amount of \$108,398.41 for the year 1953.

B. The Commissioner erred in determining that petitioners' share of the distributable income of the partnership, Arthur Murray Dance Studio, for the taxable year ended March 31, 1953, is \$159,194.77.

C. The Commissioner erred in determining that petitioners' income should be increased by the amount of \$104,798.41, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1953.

D. The Commissioner erred in increasing petitioners' "partnership income" in the amount of \$16,397.97 for the year 1954.

E. The Commissioner erred in determining that petitioners' share of the distributable income of the partnership, Arthur Murray Dance Studio, for the taxable year ended March 31, 1954, is \$85,491.10.

F. The Commissioner erred in determining that petitioners' income should be increased in the amount of \$12,797.97, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1954.

V.

The facts upon which the petitioners rely as the basis for this proceeding are:

[fol. 26] A. 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. By the year 1950 the petitioners had established dance studios in Omaha, Nebraska; Lincoln, Nebraska; and Sioux City, Iowa.

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

C. During the fiscal year ended March 31, 1950, the partnership Arthur Murray Dance Studios contracted with students to give them a course of dance instruction. Some of the contracts extended beyond the end of the taxable year in which the contract was made.

D. Students paid the partnership either in cash or by cash and deferred payments.

E. The partnership, using the accrual method of accounting, kept its books of account and reported the income it received from the dancing business when it was earned.

F. The method of accounting employed by the partnership clearly reflects its true income.

G. All items of gross income and deductions have been treated consistently since the commencement of the partnership business on June 18, 1946.

Wherefore, the petitioners pray that this Court may hear the proceeding and:

A. Determine that the Commissioner erred in increasing petitioners' "partnership income" in the amount of \$108,398.41 for the year 1953.

B. Determine that the Commissioner erred in determining that petitioners' share of the distributable income of the partnership, Arthur Murray Dance Studio, for the taxable year ended March 31, 1953, is \$159,194.77.

C. Determine that the Commissioner erred in determining that petitioners' income should be increased by the [fol. 27] amount of \$104,798.41, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1953.

D. Determine that the Commissioner erred in increasing petitioners' "partnership income" in the amount of \$16,397.97 for the year 1954.

E. Determine that the Commissioner erred in determining that petitioners' share of the distributable income of the partnership, Arthur Murray Dance Studio, for the taxable year ended March 31, 1954, is \$85,491.10.

F. Determine that the Commissioner erred in determining that petitioners' income should be increased in the amount of \$12,797.97, alleged to be "deferred income not reported" of the partnership, Arthur Murray Dance Studio, for the fiscal year ended March 31, 1954.

G. Grant such other and further relief as the Court may deem proper.

Robert Ash, 1921 Eye Street, N. W., Washington 6,
D. C., Attorney for Petitioners.

*Duly sworn to by Mark E. Schlude and Marzalie Schlude,
jurat omitted in printing.*

[fol. 28]

ATTACHMENT TO PETITION

U. S. Treasury Department
Internal Revenue Service
Regional Commissioner
Omaha 2, Nebraska

Assistant Regional Commissioner, Appellate
Room 100, Elks Club Building
108 South 18th Street
Omaha 2, Nebraska

Jul 2 1957

In Replying Refer To:

RC:OMA(OMA):Ap
WEF:BCR:lmb

Mr. Mark E. Schlude and
Mrs. Marzalie Schlude,
Husband and Wife
439 Beverly Drive
Omaha, Nebraska

Dear Mr. and Mrs. Schlude:

You are advised that the determination of your income tax liability for the taxable years ended December 31, 1953, and December 31, 1954, discloses deficiencies in tax aggregating \$94,940.14, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days from the date of the mailing of this letter you may file a petition with The Tax Court of the United States, at its principal address, Washington 4, D. C., for a redetermination of the deficiency. In counting the 90 days you may not exclude any day unless the 90th day is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event that day is not counted as the 90th day. Otherwise, Saturdays, Sundays, and legal holidays are to be counted in computing the 90-day period.