

STATE OF NEW YORK  
STATE TAX COMMISSION

Personal Income  
22 689

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In the Matter of the Petition :  
of :  
EDWARD W. & DOROTHY E. JAMISON :  
For a Redetermination of a Deficiency : DECISION  
or for Refund of Personal Income Taxes  
under Article 22 of the Tax Law for the :  
Year 1961 :  
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The taxpayers having filed a petition pursuant to Tax Law Section 689 for a Redetermination of a deficiency asserted under date of April 13, 1965 for personal income taxes imposed under Article 22 of the Tax Law for the year 1961, and the taxpayers having requested that, in lieu of a hearing, the entire file of the Department of Taxation and Finance be SUBMITTED to the State Tax Commission, and such file having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The deficiency notice asserts that the sum of \$14,807.72 was received by the taxpayer, a non-resident, as income from New York sources and results in a deficiency in tax due of \$527.62.
2. The taxpayers were residents of Westport, Connecticut throughout 1961.
3. The taxpayer was employed from January 1, 1961 to January 27, 1961 for General Time Corp., and was required to work part of such time in New York. On and after February 1, taxpayer worked for other employers and worked entirely at locations outside of New York.

4. During the taxable year, the taxpayer received \$14,807.72 from General Time Corp. This represented termination pay of \$12,692.94 and salary for the month of January of \$2,114.78.

5. During the taxable year, the taxpayer worked 19 days for General Time Corp. of which 17 were in New York State.

6. The amount of salary attributable to New York is 17/19 of \$2,114.78 which equals \$1892.17.

7. During the taxable years 1954 through 1960, taxpayer worked on the average of 65.4987% of his time in New York. No records for years preceding 1954 are available.

8. The amount of termination pay correctly allocable to New York is 65.4987% of \$12,692.94 which results in \$8313.71.

9. The taxpayer had Federal itemized deductions, exclusive of New York Income Tax, for 1961 of \$2503.95 of which \$1,446.04 are allocable to New York.

Upon the foregoing findings and all the evidence herein the State Tax Commission

DECIDES:

A. The allocation of the salary from General Time Corp. is properly allocated by reference to only the days worked for General Time Corp. The days worked for other employers are irrelevant.

B. The allocation of the termination pay by reference to the preceding six years instead of by reference to only the current year and three preceding taxable years as provided in regulation 131.18 is clearly a more fair and equitable apportionment (Reg. 20 NYCRR 131.21).

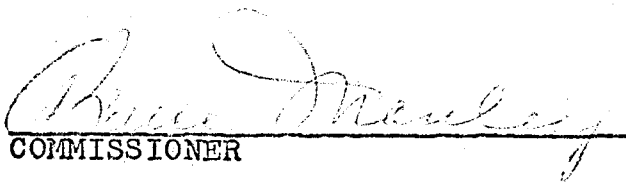
C. The deficiency determined dated April 13, 1965 is re-determined to be \$202.99.


D. The deficiency as redetermined in paragraph C is affirmed together with such interest, if any, as may be lawfully due under Section 684 of the Tax Law.

Dated: Albany, New York, this 9th day of March 1970.

STATE TAX COMMISSION

  
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PRESIDENT

  
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COMMISSIONER

  
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COMMISSIONER