

STATE OF NEW YORK  
STATE TAX COMMISSION

*Landsman, R  
Personal 22  
1971*

In the Matter of the Petition  
:  
of  
:  
Richard & Ruth Landsman  
:  
For a Redetermination of a Deficiency or  
a Refund of Personal Income  
:  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1962  
:

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Martha Funaro, 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 5th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Richard & Ruth Landsman (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Richard & Ruth Landsman  
2969 Clover Street  
Pittsford, New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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  
5th day of January, 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
RICHARD AND RUTH LANDSMAN : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for the :  
year 1962 :  
:

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Taxpayers petitioned for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1962. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, on August 8, 1967, at the offices of the State Tax Commission in the city of Rochester, New York. The petitioner appeared pro se.

FINDINGS OF FACT

1. Taxpayer and his wife filed a joint New York State Non-Resident Return for the year 1962, claiming a refund due of \$649.31.

2. On April 15, 1965, the Department of Taxation and Finance issued a notice of deficiency file #2-8562660 totalling \$353.04 for the year 1962, thereby reducing the refundable balance to \$296.27.

The deficiency was based on a finding by the Bureau that 93 days spent in Westport, Connecticut, were primarily for the taxpayer's own convenience and were not days required to work outside New York.

3. Mr. Landsman is vice-president, general manager and 20% stockholder of Six Nations Television Corporation of Syracuse, New York, and general manager of Channel 13 of Rochester, Inc., Rochester, New York. Taxpayer's duties consist of planning and preparation, securing letters of authorization from the Federal Communications Commission, interviewing, and organizing the television stations. Some of the work was done in metropolitan New York, which is near Westport, Connecticut, taxpayers' home.

4. Taxpayer claimed to work twelve hours a day including Saturdays and Sundays because of the nature of his work and to meet deadlines. Taxpayer contends that the work in Westport, Connecticut, was for the convenience of the employer and to save the corporations the added living expenses. A room in taxpayer's home in Westport contained a desk, files, calculator, typewriter and telephone. The companies did not direct the taxpayer to conduct business activities at home.

5. Taxpayer has failed in his burden of proof to show that the work done at home was other than for his own convenience.

DECISION

A. The days worked at home are not recognized as days worked outside New York State for allocation of income purposes.

B. The petition is denied, the deficiency is sustained, and the refundable balance on the tax return for the year 1962 is reduced accordingly.

DATED: *Albany, New York*  
*December 31, 1970*

STATE TAX COMMISSION

*William Halloran*  
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COMMISSIONER

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COMMISSIONER

*Milton Koerner*  
\_\_\_\_\_  
COMMISSIONER