

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

COOKE BAUSMAN, JR.

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) 1968

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 April, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Cooke Bausman, Jr.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Cooke Bausman, Jr.
125 Lake Howell Arms
Casselberry, Florida

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 April, 1972

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

April 5, 1972

**Cooke Bausman, Jr.
125 Lake Howell Arms
Casselberry, Florida**

Dear Sir:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 690**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
COOKE BAUSMAN, JR.	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1968.	:	

The petitioner, Cooke Bausman, Jr., filed a petition for redetermination of personal income tax for the year 1968. The case was submitted for decision on the information in the file.

ISSUE

Was the Income Tax Bureau's allocation of income of a nonresident with salary from New York sources for part of a year, legally authorized?

FINDINGS OF FACT

1. Petitioner timely filed a New York State nonresident income tax return for the year 1968.
 2. A Notice of Determination of Deficiency in income tax was issued under File No. 8-13011179 against the taxpayer. He timely filed a petition for redetermination of the deficiency.
 3. The taxpayer was a resident of Connecticut who received a salary income of \$36,742.70 from New York State sources from January 1, 1968 to June 30, 1968. The balance of taxpayer's income, \$19,532.36 from July 1, 1968 to December, 1968, was earned from Connecticut sources.
- The taxpayer worked 102 days in the first half of the year,

42 days of which were worked in New York State. The taxpayer worked 128 days all outside of New York State in the last half of the year.

4. The Income Tax Bureau determined that the salary income of \$36,742.70 from New York sources from January 1, 1968 to June 30, 1968, was to be allocated by days worked in and out of the State for that six month period; or

42 days	
<hr/>	
102 days	X \$36,742.70 or \$15,129.35

5. The taxpayer contended that the income of \$36,742.70 for the period January 1, 1968 to June 30, 1968, was to be allocated by days worked in and out of the State for the twelve months of 1968; or

42 days	
<hr/>	
230 days	X \$36,742.70 or approximately \$6,787.00

CONCLUSIONS OF LAW

A. The allocation proposed by the taxpayer would unfairly distort the amount of income actually earned in New York from New York sources.

B. The allocation determined by the Income Tax Bureau is fair and equitable and is legally authorized. 20 NYCRR 131.21. Matter of Jamison, State Tax Commission, Dec., Mar. 9, 1970, CCH Par 99-245.

C. The petition is denied and the determination of the deficiency in income tax is sustained.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
April 5, 1972

STATE TAX COMMISSION

Norman Gallone

COMMISSIONER

Bruce Manley

COMMISSIONER

Milton Koun

COMMISSIONER