

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
THOMAS VALANDO & ELIZABETH VALANDO  
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) 1965 & 1967 :

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 7th day of August , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas & Elizabeth Valando (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Thomas & Elizabeth Valando  
618 Lake Avenue  
Greenwich, Connecticut

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

7th day of August , 1972

Joseph S. Van Patten

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

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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 7th day of August , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon A. P. Cannon (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: A. P. Cannon  
c/o W.K. Wallace & Co.  
444 Madison Avenue  
New York, New York 10022  
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

7th day of August 1972.

James S. Van Patten

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12227  
AREA CODE 518  
457-2655, 6, 7

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**August 7, 1972**

**Thomas & Elizabeth Valando  
618 Lake Avenue  
Greenwich, Connecticut**

**Dear Mr. & Mrs. Valando:**

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

Please take further notice that pursuant to section(s)  
**690** of 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 relating hereto may be  
addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

  
**Paul B. Coburn**

Hearing Officer

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petitions :  
of :  
THOMAS VALANDO AND ELIZABETH : DECISION  
VALANDO :  
for Redetermination of Deficiency or :  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Years :  
1965 and 1967. :

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Petitioners, Thomas Valando and Elizabeth Valando, have filed petitions for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1965 and 1967. (File Nos. 49229737 and 89229775). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on April 25, 1972, at 10:45 A.M. W. K. Wallace & Co. by A. P. Cannon, C.P.A. appeared for petitioners. Saul Heckelman, Esq. (Solomon Sies, Esq., of Counsel) appeared for the Income Tax Bureau.

ISSUE

Were days worked at home in Connecticut by petitioner, Thomas Valando, during the years 1965 and 1967 allocable to New York State?

FINDINGS OF FACT

1. Petitioners, Thomas Valando and Elizabeth Valando, filed New York State income tax nonresident returns for the years 1965 and 1967. They allocated petitioner, Thomas Valando's salary income for said years based upon the number of alleged days he worked within and without New York State during said years.

2. On March 11, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Thomas Valando and Elizabeth Valando, disallowing an allocation of days worked by petitioner,

Thomas Valando, at his home in Connecticut during the year 1965 and accordingly issued a Notice of Deficiency in the sum of \$1,707.70.

3. On July 27, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Thomas Valando and Elizabeth Valando, disallowing an allocation of days worked by petitioner, Thomas Valando, at his home in Connecticut during the year 1967 and accordingly issued a Notice of Deficiency in the sum of \$1,988.56.

4. Petitioners, Thomas Valando and Elizabeth Valando, were residents of the State of Connecticut during the years 1965 and 1967.

5. Sunbeam Music Corp. was a music publisher during the years 1965 and 1967. Its principal business was to assemble lyrics and music for theatrical shows. It was a New York corporation. Its principal place of business and offices were in New York City. It also had a sales office in California. It did not have an office nor was it authorized to do business in Connecticut.

6. Petitioner, Thomas Valando, was the sole stockholder and principal officer of Sunbeam Music Corp. during the years 1965 and 1967. He received a salary from the corporation totaling \$90,250.00 in 1965 and \$116,000.00 in 1967.

7. Petitioners, Thomas Valando and Elizabeth Valando, owned a 21-room home in Greenwich, Connecticut during the years 1965 and 1967. He used one wing of the home as a music studio and as a working area and sleeping quarters for writers. He personally paid for the expenses of the facilities in his home. He was not reimbursed for his expenses by the corporation. It was more convenient for him to perform the studio work at home since the corporation did not have quiet secluded working facilities in New York.

CONCLUSIONS OF LAW

A. That the days worked at home in Connecticut during the years 1965 and 1967 by petitioner, Thomas Valando, were worked there by reason of his necessity and convenience and not for the necessity of his employer and, therefore, such days must be held to be days worked within New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and NYCRR 131.16.

B. That the petitions of Thomas Valando and Elizabeth Valando are denied and the notices of deficiency issued March 11, 1968, and July 27, 1970, are sustained.

DATED: Albany, New York

*August 7, 1972*

STATE TAX COMMISSION

*Norman Salzman*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Manley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Kerner*  
\_\_\_\_\_  
COMMISSIONER