

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM E. WARD & MARY P. WARD

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) 1969

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 1st day of August , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon William E. Ward & Mary P. Ward (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: William E. & Mary P. Ward
Deer Park
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

1st day of August , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM E. WARD & MARY P. WARD

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) 1969

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 1st day of August , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Kenneth Dubuc & John A. Carley (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Kenneth Dubuc & John A. Carley
c/o Price Waterhouse & Co.
986 Bedford Street
Stamford, 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

1st day of August , 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

August 1, 1972

William E. & Mary P. Ward
Deer Park
Greenwich, Connecticut

Dear Mr. & Mrs. Ward:

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 deci-
sion must be commenced within **4 Months**
from 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 relative
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

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
WILLIAM E. WARD AND MARY P. WARD : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1969. :

Petitioners, William E. Ward and Mary P. Ward, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1969. (File No. 9-33094542). 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 May 23, 1972, at 1:25 P.M. Price Waterhouse & Co. by Kenneth Dubuc, C.P.A. and Ronald Ryan appeared for petitioner, Saul Heckelman, Esq., (Solomon Sies, Esq. of Counsel), appeared for the Income Tax Bureau.

ISSUE

Were days worked at home in Connecticut by petitioner, William E. Ward, during the year 1969 allocable to New York State?

FINDINGS OF FACT

1. Petitioner, William E. Ward and Mary P. Ward, filed a New York State income tax nonresident return for the year 1969. They allocated petitioner, William E. Ward's salary income for said year based upon the number of alleged working days he worked within and without New York State during said year. They claimed that he worked 76 days during said year outside of New York State.

2. On September 27, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, William E. Ward and Mary P. Ward, imposing additional personal income tax due for the year 1969

in the sum of \$3,287.90 upon the grounds that 31 days of the 76 days claimed to have been worked outside of New York State by petitioner, William E. Ward, during said year were worked at their home in Connecticut and therefore were not properly included in the claimed allocation. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$3,573.85.

3. Petitioners, William E. Ward and Mary P. Ward, were residents of the State of Connecticut during the year 1969. They resided at Deer Park, Greenwich, Connecticut.

4. Petitioner, William E. Ward, was President and Chief Executive Officer of Russell, Burdsall & Ward Bolt and Nut Co. during the year 1969. The corporation maintained an office in Port Chester, New York. It did not have an office in Connecticut. Petitioner normally used the Port Chester office as his main office for conducting the affairs of the corporation.

5. On June 18, 1969, petitioner, William E. Ward, was hospitalized at United Hospital, Port Chester, New York as the result of a heart attack. He was discharged from the hospital on June 27, 1969, at which time he commenced a period of convalescence at his home in Connecticut. Between June 27, 1969 and December 31, 1969, he spent 31 days at home working on corporate business. The bulk of this time was spent working on budgets and other fiscal matters. He conferred at home with key executives, corporate attorneys and accountants.

CONCLUSIONS OF LAW

A. That the 31 days worked at home in Connecticut required by reason of petitioner, William E. Ward's physical condition during the year 1969 were by reason of his necessity and not for the necessity of his employer. The services performed by him at home were done for reasons of his personal health and convenience 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 20 NYCRR 131.16. Churchill v. Gallman, 326 N.Y.S. 2d 917 (3rd Dept. 1971).

B. That the petition of William E. Ward and Mary P. Ward is denied and the Notice of Deficiency issued September 27, 1971, is sustained.

DATED: Albany, New York

August 1, 1972

STATE TAX COMMISSION

Norman Gallman

COMMISSIONER

Bruce Hanley

COMMISSIONER

Milton Krerner

COMMISSIONER