

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JAMES E. & MARILYN S. AHRENS

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 13th day of August , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon James E. & Marilyn S. Ahrens (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. James E. Ahrens  
435 North Old Ranch Road  
Arcadia, California 91006

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

13th day of August , 1973

*Martha Funaro*  
*James E. Ahrens*



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

**Mario A. Procaccino,**

~~XXXXXXXXXXXX~~ NORMAN F. GALLMAN, ~~XXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York  
**August 13, 1973**

**Mr. & Mrs. James E. Ahrens**  
**435 North Old Ranch Road**  
**Arcadia, California 91006**

**Dear Mr. & Mrs. Ahrens:**

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,

**L. Robert Leisner**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
JAMES E. and MARILYN S. AHRENS : DECISION  
for Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Year 1969. :

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Petitioners, James E. and Marilyn S. Ahrens, petitioned for a redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1969.

(The case was submitted for decision on information contained in the file.)

ISSUE

Can the nonresident taxpayers count vacation days spent out of New York State by James E. Ahrens as days worked outside the state for purposes of allocation of income to New York State?

FINDINGS OF FACT

1. Petitioners timely filed New York State income tax returns for the year 1969.
2. A Notice of Determination of deficiency in personal income tax for the year 1969 was issued on September 25, 1972, against the taxpayers under File No. 9-33234012.
3. The taxpayers petitioned for redetermination of the deficiency.
4. James E. Ahrens was employed by Universal American Corporation of New York State during 1969 from January 1 to October 15. The taxpayers were residents of Connecticut during this period.
5. The taxpayers contended that week days James A. Ahrens spent on vacation outside New York State, should be counted as working days outside New York State for the purposes of allocating his income to New York State.

6. The Income Tax Bureau contended that only days actually worked outside the state by the taxpayer could be counted as working days outside the state.

CONCLUSIONS OF LAW

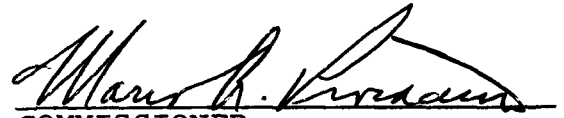
A. Pursuant to NYCRR §131.16: "In making the allocation provided for in this section, no account is taken of nonworking days, including Saturdays, Sundays, holidays, days of absence because of illness or personal injury, vacation, or leave with or without pay."

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

C. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York  
August 13, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER