

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HOWARD BOYD & LUCILLE BOYD

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) 1966

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 8th day of November, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Howard & Lucille Boyd

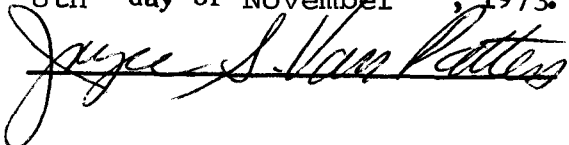
(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Howard Boyd
2727 Allen Parkway
Houston, Texas 77019

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

8th day of November, 1973.







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,
~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

November 8, 1973

Mr. & Mrs. Howard Boyd
2727 Allen Parkway
Houston, Texas 77019

Dear Mr. & Mrs. Boyd:

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 :
HOWARD BOYD and LUCILLE BOYD : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1966. :

Petitioners, Howard Boyd and Lucille Boyd, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1966. (File No. 69203368). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, for July 19, 1973, at 10:45 A.M. Prior to the formal hearing, petitioners advised the State Tax Commission, in writing, that they waived a formal hearing and requested that the State Tax Commission decide the case upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Were 21 Saturdays and Sundays worked at home in Connecticut during the year 1966 by petitioner, Howard Boyd, allocable to total days worked in a year on petitioners' New York State nonresident income tax return for said year?

FINDINGS OF FACT

1. Petitioners, Howard Boyd and Lucille Boyd, filed a New York State nonresident return for the year 1966. They allocated the income

received by petitioner, Howard Boyd, from El Paso Natural Gas Company based upon the number of alleged days he worked within and without New York State during said year. They claimed he worked 300 days during the year 1966, of which 170 days were worked outside of New York State.

2. On April 30, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Howard Boyd and Lucille Boyd, in which it computed total working days during the year 1966 as 279 days. Days worked inside New York State remained at 130 days. In arriving at the computation, the Bureau disallowed 21 days worked at home by petitioner, Howard Boyd, which were Saturdays and Sundays, as a proper basis for allocation of income from salary, accordingly, a Notice of Deficiency was issued in the sum of \$376.96.

3. Petitioners, Howard Boyd and Lucille Boyd, were residents of the State of Connecticut during the year 1966. They resided at 103 Woodside Drive, Greenwich, Connecticut.

4. Petitioner, Howard Boyd, was employed by El Paso Natural Gas Company during the year 1966. He was chairman of the board and chief executive officer.

5. El Paso Natural Gas Company has always maintained its principal operating offices in Texas. A New York office was established in 1957 because of its proximity to the financial community. Inasmuch as these financial institutions are not open on Saturday and Sunday, there was seldom, if ever, any need for work to be conducted on these days in the New York office. However, the demands of the company's various activities required the time and attention of petitioner, Howard Boyd, on Saturdays

and Sundays from time to time. In view of the time required for travel to New York and return to Connecticut, petitioner decided to perform the required work at his home in Greenwich, Connecticut.

CONCLUSIONS OF LAW

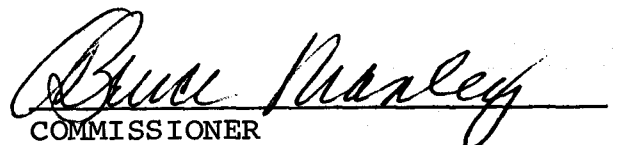
A. That the 21 Saturdays and Sundays worked at home in Connecticut during the year 1966 by petitioner, Howard Boyd, were worked there by reason of his necessity and convenience and not for the necessity of his employer and therefore, for purposes of allocation of salary income, said Saturdays and Sundays cannot be included by him in computing total days worked in a year or total days worked outside of New York State in a year in accordance with the meaning and intent of section 632(c) of the Tax Law.

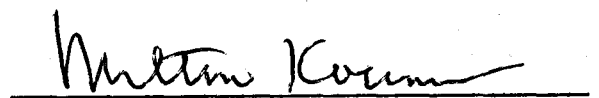
B. That the petition of Howard Boyd and Lucille Boyd is denied and the Notice of Deficiency issued April 30, 1968, is sustained.

DATED: Albany, New York
November 8, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER