

POOR  
QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HANS K. FRYMANN & LOUISE FRYMANN

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) 1967, 1968 &  
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 15th day of February , 1973, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Hans K. & Louise  
Frymann (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Hans K. & Louise Frymann  
Winter Street  
South Norwalk, Connecticut 06854

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

15th day of February , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HANS K. FRYMANN & LOUISE FRYMANN :

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) 1967, 1968 &  
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 15th day of February , 1973 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Paul P. Plumb

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

wrapper addressed as follows: Paul P. Plumb  
163 West Rocks Road  
Norwalk, 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

15th day of February , 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HANS K. FRYMANN & LOUISE FRYMANN :

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) 1967, 1968 &  
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 15th day of February , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon Richard S. Pastore, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Richard S. Pastore, Esq.  
15 Sherwood Place  
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

15th day of February, 1973

Lynn Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 15, 1973

Mass E. & Louise Frymann  
Winter Street  
South Norwalk, Connecticut 06854

Dear Mr. & Mrs. Frymann:

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

Please take further notice that pursuant to **section 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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

  
**Paul D. Coburn**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

---

In the Matter of the Petitions	:	
of	:	
HANS K. FRYMANN and LOUISE FRYMANN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1967, 1968 and 1969.	:	

---

Petitioners, Hans K. Frymann and Louise Frymann, have filed petitions for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1967, 1968 and 1969. (File Nos. 8-29180165 and 9-33238920). 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 November 13, 1972, at 3:00 P.M. Petitioners appeared by Richard S. Pastore, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were Saturdays worked at home in Connecticut by petitioner, Hans K. Frymann, during the years 1967, 1968 and 1969 a proper basis for allocation of salary income?

FINDINGS OF FACT

1. Petitioners, Hans K. Frymann and Louise Frymann, filed New York State nonresident income tax returns for the years 1967, 1968 and 1969. On said returns, they included in total days worked outside of New York State, Saturdays worked at home by petitioner, Hans K. Frymann, during said years.

2. On November 30, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Hans K. Frymann and Louise Frymann, for the year 1968 disallowing Saturdays

worked at home by petitioner, Hans K. Frymann, as a proper basis for allocation of income from salary, and accordingly issued a Notice of Deficiency in the sum of \$395.41. On April 14, 1971, it issued a similar Statement of Audit Changes against them for the year 1967 and accordingly issued a Notice of Deficiency in the sum of \$662.35. On May 22, 1972, it issued a similar Statement of Audit Changes, against them for the year 1969 and accordingly issued a Notice of Deficiency in the sum of \$166.11.

3. Petitioners, Hans K. Frymann and Louise Frymann, were residents of the State of Connecticut during the years 1967, 1968 and 1969. They resided in a home located at Winter Street, South Norwalk, Connecticut.

4. Petitioner, Hans K. Frymann, was employed by Lone Star Cement Corporation during the years 1967, 1968 and 1969. He was vice president in charge of corporate engineering, purchasing and project management, and, after May 1, 1968, manufacturing.

5. Lone Star Cement Corporation was engaged in the cement business and allied fields during the years 1967, 1968 and 1969. It was originally incorporated in the State of Maine. It subsequently changed its state of incorporation to Delaware. Its corporate headquarters were located at 100 Park Avenue in New York City until October 6, 1969, when said offices were moved to Greenwich, Connecticut. Approximately 7 1/2% of its production facilities were located in New York State until it closed a cement plant in 1967. After that date approximately 3 1/2% of said facilities were located in New York State.

6. Petitioner, Hans K. Frymann, worked in the New York office of Lone Star Cement Corporation during the week in the period from January 1, 1967 through October 6, 1969. He had a private office and a secretary. The New York office was open Monday through Friday. The switchboard was closed and there was no heat or air conditioning on weekends. The corporation's production facilities

generally operated on a seven-day-a-week basis.

7. Petitioner, Hans K. Frymann, maintained one room in his home in Connecticut as an office during the years 1967, 1968 and 1969. The work he did there on weekends consisted of reviewing proposals and resolving problems that he had been unable to review or resolve during his normal work week at the New York office. He also, on occasion, received phone calls from company plants that were having technical production problems during the weekend.

CONCLUSIONS OF LAW

A. That the Saturdays worked at home in Connecticut during the years 1967, 1968 and 1969 by petitioner, Hans K. Frymann, 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 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 and NYCRR 131.16.

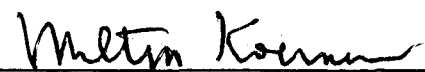
B. That the petitions of Hans K. Frymann and Louise Frymann are denied and the notices of deficiency issued November 30, 1970, April 14, 1971, and May 22, 1972, are sustained.

DATED: Albany, New York  
February 15, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER