

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD J. GOGGIN and
MARGARET D. GOGGIN

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

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 16th day of January, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon RICHARD J. AND
MARGARET D. GOGGIN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Richard J. and Margaret D. Goggin
Plumtree Road, RFD #1
Newton, Connecticut 06474

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

16th day of January, 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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MARGARET D. GOGGIN

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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 16th day of January , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon CHARLES H.

LEVEY

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Charles H. Levey
485 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

16th day of January , 1973

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

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
January 16, 1973

Richard J. and Margaret D. Goggin
Plumtree Road, RFD #1
Newton, Connecticut 06474

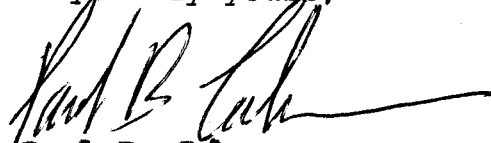
Dear Mr. and Mrs. Goggin:

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 :
RICHARD J. GOGGIN and MARGARET D. GOGGIN : DECISION
for Redetermination of Deficiency or for :
Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1967. :

Petitioners, Richard J. Goggin and Margaret D. Goggin, 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 1967. (File No. 7-89180692). 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 October 18, 1972 at 10:15 A.M. Petitioners appeared by Charles H. Levey, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUE

Were 51 days worked at home in Connecticut during the year 1967 by petitioner, Richard J. Goggin, allocable as days worked within or days worked without New York State?

FINDINGS OF FACT

1. Petitioners, Richard J. Goggin and Margaret D. Goggin, filed a New York State income tax nonresident return for the year 1967. They allocated the income received by petitioner, Richard J. Goggin, from New York University, based upon the number of days he alleged to have worked within and without New York State during said year.

2. On November 30, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Richard J. Goggin and

Margaret D. Goggin, disallowing an allocation of days worked at home during the year 1967 by petitioner, Richard J. Goggin, as days worked without New York State and accordingly issued a Notice of Deficiency in the sum of \$398.46.

3. It was stipulated at the formal hearing that petitioner, Richard J. Goggin, during the year 1967 worked a total of 248 days; that he worked 14 days without New York State, at places other than his home, for which he was given credit in the Statement of Audit Changes and; that he worked 51 days at his home in Connecticut which were considered days worked within New York State in the Statement of Audit Changes.

4. Petitioners, Richard J. Goggin and Margaret D. Goggin, were residents of the State of Connecticut during the year 1967. They resided in a home located at Plumtree Road, Newtown, Connecticut.

5. Petitioner, Richard J. Goggin, was employed as a professor by the School of Arts of New York University during the year 1967. He specialized in the field of communications. He principally taught courses in the history of film, television and radio. He taught three or four courses each semester. He was provided with an office at the campus of New York University.

6. Petitioner, Richard J. Goggin, maintained an extensive collection of books, periodicals, bulletins, kinescope recordings, correspondence, photographs, newspaper clippings, historical manuscripts and reports, research and lecture notes, scripts, and other materials in a library at his home in Connecticut during the year 1967. He used these materials to prepare for courses that he taught and articles that he wrote. He had collected these materials over a period of many years. They were generally not available at the New York University library or at any other institutions. He prepared for classes, wrote articles, carried on research and graded

examinations in the room he maintained as an office at his home. It was more convenient for him to perform this work at home since the materials were stored there and since he was not interrupted by telephone calls, students and other distractions.

CONCLUSIONS OF LAW

A. That the 51 days worked at home in Connecticut during the year 1967 by petitioner, Richard J. Goggin, were worked there by reason of his necessity and convenience and not for the necessity of his employer and, therefore, said 51 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 petition of Richard J. Goggin and Margaret D. Goggin is denied and the Notice of Deficiency issued November 30, 1970 is sustained.

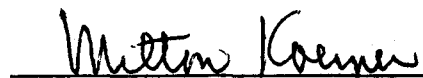
DATED: Albany, New York
January 16, 1973

STATE TAX COMMISSION

COMMISSIONER



COMMISSIONER



COMMISSIONER