

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MARJORIE GRANT

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

LYNN WILSON, 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 February, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon MARJORIE GRANT

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

wrapper addressed as follows:

Marjorie Grant
82 Kings Highway South
Westport, 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

16th day of February, 1973.

Maitha Turner

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 16, 1973

Marjorie Grant
82 Kings Highway South
Westport, Connecticut

Dear Mrs. Grant:

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 B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MARJORIE GRANT : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1967. :

Petitioner, Marjorie Grant, has 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. 88503934). 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 19, 1972, at 10:45 A.M. and continued on November 15, 1972, at 2:45 P.M. Petitioner appeared by Bernard Medoff. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were 79 days alleged to have been worked at home in Connecticut during the year 1967 by petitioner, Marjorie Grant, allocable as days worked within or days worked without New York State?

FINDINGS OF FACT

1. Petitioner, Marjorie Grant, and her husband filed a New York State combined nonresident income tax return for the year 1967. They allocated the income received by petitioner, Marjorie Grant, from Midge Grant, Inc. based upon the number of days she alleged to have

worked within and without New York State during said year. They claimed that she worked 211 days during the year of which 110 days were worked outside of New York State.

2. On August 31, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Marjorie Grant, in which it computed total working days during the year as 211 and total days worked outside of New York as 31. In arriving at this computation, it treated 79 days alleged to have been worked at home by petitioner, Marjorie Grant, during said year as days worked within New York State. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$736.31.

3. Petitioner, Marjorie Grant, and her husband were residents of the State of Connecticut during the year 1967. They resided in a home located at 82 Kings Highway South, Westport, Connecticut.

4. Petitioner, Marjorie Grant, was secretary, treasurer and designer for Midge Grant, Inc. during the year 1967. Her husband was the chief executive officer and salesman for the corporation. They controlled the firm.

5. Midge Grant, Inc. was engaged in the manufacture of women's dresses and skirts during the year 1967. It maintained corporate offices at 1407 Broadway in New York City. These offices consisted of a showroom and an office with four desks for bookkeepers, petitioner and her husband. The corporation also maintained a factory on one floor of a loft building located at 122 West 27th Street in New York City. Approximately fifty people were employed by the corporation

in the manufacture of dresses and skirts. The business had originally started in petitioner's home, but over the years it had expanded into the above described operation.

6. Petitioner, Marjorie Grant, was the sole designer for Midge Grant, Inc. during the year 1967. She sketched the lines, chose the fabrics, supervised the pattern makers and oversaw the production of the first samples.

7. Petitioner, Marjorie Grant, used one room in her home in Connecticut as an office during the year 1967. She kept sewing machines, fabrics, trimmings, a dummy and a cutting table in the room. She used the room to design the garments to be manufactured by Midge Grant, Inc. She did not do this work in the office or in the factory because of lack of space, constant interruptions and excessive noise.

8. Petitioner, Marjorie Grant, estimated that she worked every Friday and occasional Mondays at her home during the year 1967. She failed to submit any documentary or other sufficient evidence to prove the specific number of days she worked at home during said year.

CONCLUSIONS OF LAW


A. That the days worked at home in Connecticut during the year 1967 by petitioner, Marjorie Grant, were worked there by reason of her necessity and convenience and not for the necessity of her employer and therefore said 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 even if said days worked at home in Connecticut during the year 1967 were for the necessity of petitioner, Marjorie Grant's employer, she would not be entitled to an allocation of said days, since she failed to prove the specific number of days she worked at home.

C. That the petition of Marjorie Grant is denied and the Notice of Deficiency issued August 31, 1970, is sustained.

DATED: Albany, New York
February 16, 1973

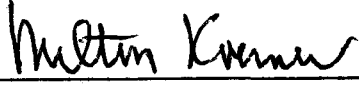
STATE TAX COMMISSION



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