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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HEWITT S. & MARY D. WELSH

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 27th day of February , 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Hewitt S. & Mary D. Welsh (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Hewitt S. & Mary D. Welsh
Clearwater Park, Rt. #1
Covington, Virginia 24426

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

27th day of February , 1973.

Lynn Wilson

Martha Funaro



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 27, 1973

**Hewitt S. & Mary D. Welsh
Clearwater Park, Rt. #1
Covington, Virginia 24426**

Dear Mr. & Mrs. Welsh:

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,

L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
HEWITT S. AND MARY D. WELSH : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year :
1967. :
:

Hewitt S. and Mary D. Welsh petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1967.

This case was submitted for decision on information in the file.

ISSUE

Was the allocation to New York income determined by the Income Tax Bureau correct?

FINDINGS OF FACT

1. Petitioners, Hewitt S. and Mary D. Welsh, now residents of New York during all the periods involved, timely filed New York State nonresident income tax returns for the year 1967.

2. A Notice of Deficiency in personal income taxes for the year 1967 was issued on August 31, 1970, against the taxpayers under File No. 73129004.

3. The taxpayers petitioned for redetermination of the deficiency.

4. The Income Tax Bureau computed New York income at:

Days in New York	$\frac{138}{146}$	X	\$20,624.94 or \$19,494.80
Days Worked			

5. The taxpayer, who lived in Short Hills, New Jersey with his wife, worked for Clupak, Inc., a New York concern, from January 1, 1967 to August 31, 1967, and earned \$20,624.94. The taxpayer's

work in New York ended on June 19, 1967, and taxpayer worked from his home and did not further work in New York. He then moved from New Jersey to West Virginia at the end of August. Forty-two days that were spent at home in New Jersey are not found to be workdays.

6. The taxpayer's work days for the taxable period January 1, 1967 to August 31, 1967, totaled 104 days and the days worked outside of New York in New Jersey totaled 8 days.

7. The taxpayer's New York income is:

$\frac{96}{104}$	(Days worked in New York)		
	(Days worked, 1/1/67 - 8/31/67)	X	\$20,624.94

8. The allocation of itemized deductions and the exemptions are not in dispute.


CONCLUSIONS OF LAW

A. The deficiency shall be recomputed on New York income of $\frac{96}{104}$ X \$20,624.94 with allowance of itemized deductions and exemptions as determined by the Income Tax Bureau in its deficiency notice.

B. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
February 27, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER