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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY I. and LAURA E. KELMAN

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) 1971.

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 21st day of June, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon HARRY I. and
LAURA E. KELMAN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

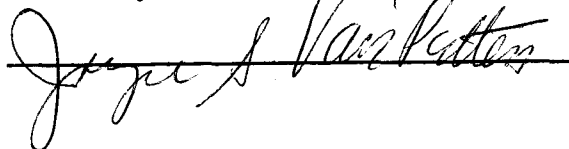
Mr. and Mrs. Harry I. Kelman
2807 East Laurel Lane
Phoenix, Arizona 85028

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

21st day of June, 1974







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
June 21, 1974

Mr. and Mrs. Harry I. Kelman
2807 East Laurel Lane
Phoenix, Arizona 85028

Dear Mr. and Mrs. Kelman:

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,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HARRY I. and LAURA E. KELMAN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1971.	:	

Petitioners, Harry I. and Laura E. Kelman, 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 1971. (File No. 1-73072106.) The case was submitted for decision on the information contained in the file.

ISSUE

Were days worked at home by petitioner, Harry I. Kelman, during the year 1971, allocable as days worked within or days worked without New York State?

FINDINGS OF FACT

1. Petitioners, Harry I. and Laura E. Kelman, filed a New York State nonresident tax return for the year 1971.
2. On March 16, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Harry I. and Laura E. Kelman, imposing additional personal income tax for the year 1971 in the sum of \$170.94. Petitioners paid the additional tax and then claimed a refund. On November 26, 1973, the State Tax Commission issued a Notice of Disallowance of petitioners' claim.

3. Petitioners, Harry I. and Laura E. Kelman, were residents of the State of Connecticut during the year 1971. They resided in a home located at 33 Monroe Street, Milford, Connecticut.

4. During the year 1971, petitioner, Harry I. Kelman, was employed by the Bureau of Industrial Engineering for the City of New York. The nature of his work was to gather data within the City of New York and then to correlate that data into meaningful information. The gathering of data was all field work involving petitioner, Harry I. Kelman, working in the City of New York.

5. During the year 1971, petitioner, Harry I. Kelman, worked a number of days at his home because the Bureau of Industrial Engineering failed to provide petitioner with office space.

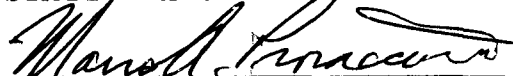
CONCLUSIONS OF LAW

A. That the days worked at home in Connecticut during the year 1971 by petitioner, Harry I. Kelman, 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 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 20 NYCRR 131.16.

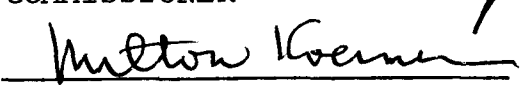
B. That the petition of Harry I. Kelman and Laura E. Kelman is denied and the Notice of Disallowance, issued November 26, 1973, is sustained.

DATED: Albany, New York
June 21, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER