

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

WALTER T. MARGETTS, JR. and  
JOSEPHINE S. MARGETTS

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) 1965, 1966 and:  
1967.

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

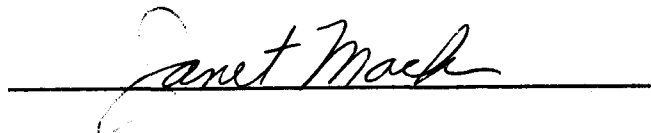
Janet Mack , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 4th day of November , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Walter T. Margetts, Jr.  
and Josephine S. Margetts ~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. & Mrs. Walter T. Margetts, Jr.  
Holly Hill Farms  
Morristown, R.D., New Jersey 07960  
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)~~  
~~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

4th day of November , 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  
November 4, 1974

Mr. & Mrs. Walter T. Margetts, Jr.  
Holly Hill Farms  
Morristown, R.D., New Jersey 07960

Dear Mr. & Mrs. Margetts:

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

Please take further notice that pursuant to  
Section (x) **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 S. Coburn  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

---

In the Matter of the Petition :  
of :  
WALTER T. MARGETTS, JR. and :  
JOSEPHINE S. MARGETTS : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Years 1965, 1966 and 1967. :

---

Petitioners, Walter T. Margetts, Jr. and Josephine S. Margetts, have filed a petition for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1965, 1966 and 1967. (File No. 73232887).

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 January 17, 1972, at 2:20 P.M. Petitioner, Walter T. Margetts, Jr., appeared pro se and for his wife petitioner, Josephine S. Margetts. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of counsel).

ISSUE

Was all of the income received by petitioner, Walter T. Margetts, Jr., during the years 1965, 1966 and 1967, from his employer, the Hudson & Manhattan Corporation, allocable to New York State?

FINDINGS OF FACTS

1. Petitioners, Walter T. Margetts, Jr. and Josephine S. Margetts, filed New York State income tax nonresident returns for the years 1965, 1966 and 1967. They claimed that petitioner, Walter T. Margetts, Jr., worked for Hudson & Manhattan Corporation a total of 225 days during 1965 of which 165 days were worked outside of New York State, a total

of 262 days during 1966, of which 216 days were worked outside of New York State, and a total of 254 days during 1967, of which 213 days were worked outside of New York State.

2. On April 13, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Walter T. Margetts, Jr. and Josephine S. Margetts, imposing additional personal income tax for the years 1965, 1966 and 1967, upon the grounds that services performed outside of New York for the convenience of an employee are not considered days worked outside of New York State for allocation purposes. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$7,925.69.

3. Petitioners, Walter T. Margetts, Jr. and Josephine S. Margetts, were residents of the State of New Jersey during the years 1965, 1966 and 1967. They resided at Holly Hill Farm, Morristown, New Jersey.

4. During the years in question, petitioner, Walter T. Margetts, Jr., was president of the Hudson & Manhattan Corporation, formerly the Hudson & Manhattan Railway Company. Two-thirds of its railroad property was located in New Jersey. The corporation maintained offices at 33 Church Street, New York, New York. It had no offices in New Jersey.

5. During the years 1965, 1966 and 1967, petitioner, Walter T. Margetts, Jr., served as president of the Hudson & Manhattan Corporation on a part-time basis, with the understanding that his primary obligation was to the Laytham Foundry, Inc. of Paterson, New Jersey, of which he was Chairman of the Board and Chief Executive Officer.

6. During the years 1965, 1966 and 1967, the activities of the Hudson & Manhattan Corporation were limited to the trial and appeals of the condemnation case with the Port of New York Authority, which had taken over the physical assets of the corporation as of September 1, 1962. The trial took place in New York. The services

rendered by petitioner, Walter T. Margetts, Jr., consisted of attending directors' meetings in New York, and investing funds for the corporation, which he handled through the office he maintained at the Laytham Foundry, Paterson, New Jersey. Petitioner worked out of his New Jersey office because the Hudson & Manhattan Corporation maintained no offices in New Jersey, and because petitioner's commitments to the Laytham Foundry required that he be at his office in Paterson, New Jersey.

CONCLUSIONS OF LAW

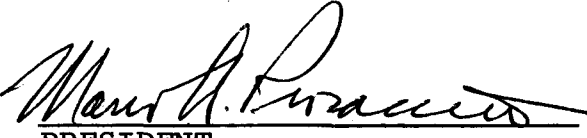
A. That the days worked at the offices of Laytham Foundry, Inc. in Paterson, New Jersey, by petitioner, Walter T. Margetts, Jr., during the years 1965, 1966 and 1967, were worked there by reason of his necessity and convenience and not for the necessity of his employer, Hudson & Manhattan Corporation, 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.

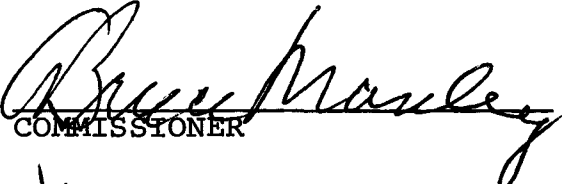
B. That, therefore, for purposes of allocation of salary income, petitioner, Walter T. Margetts, Jr. worked 225 days in New York State during 1965, 262 days in New York State during 1966 and 254 days in New York State during 1967, in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.


C. That the petition of Walter T. Margetts, Jr. and Josephine S. Margetts is denied and the Notice of Deficiency issued April 13, 1970, is sustained.

DATED: Albany, New York  
November 4, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER