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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HOMER and MARJORIE PAGE

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 7th day of March, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Mr. & Mrs.
Homer Page (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. Homer Page
Dudleytown Road
Cornwall Bridge, 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

7th day of March, 1974

STATE OF NEW YORK
STATE TAX COMMISSION

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 7th day of March, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon W. Arthur
Campbell, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

W. Arthur Campbell, Esq.
99 Park Avenue
New York, New York 10016

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

7th day of March, 1974.

[Signature]
Judge A. Van Pelt

[Signature]
Martha Funaro



**STATE CAMPUS
ALBANY, N. Y. 12226**

457-2655, 6, 7

~~JOSEPH F. GALEMAN, ACTING PRESIDENT~~
Mario A. Procaccino

MILTON KOERNER

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Mr. & Mrs. Homer Page
Dudleytown Road
Cornwall Bridge, Connecticut

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

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.

Ngell Wright

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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| In the Matter of the Petition | : | |
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| of | : | |
| | : | |
| HOMER and MARJORIE PAGE | : | DECISION |
| | : | |
| for a Redetermination of a Deficiency | : | |
| or for Refund of Personal Income Tax | : | |
| under Article 22 of the Tax Law for | : | |
| the Year 1967. | : | |
| | : | |
| | : | |

Homer and Marjorie Page, filed a petition under section 689 of the Tax Law for the redetermination of a deficiency, dated September 29, 1969, in the amount of \$394.16, plus interest of \$34.41, for a total of \$428.57 in personal income tax under Article 22 of the Tax Law for the year 1967.

A hearing was duly held on November 2, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioners were represented by W. Arthur Campbell, Esq. of Wynn, Blattmacher, Campbell & Milas.

The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Albert J. Rossi, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether days worked at home by a nonresident should be considered as days worked at the New York

office of his employer for purposes of the allocation of salary income.

FINDINGS OF FACT

1. Petitioners are and always have been residents of Cornwall Bridge, Connecticut, and nonresidents of New York. Cornwall Bridge is 100 miles from Manhattan where Mr. Page works. Mr. Page is an employee of Marts & Lundy, Inc. of 521 Fifth Avenue, New York City, and has been so for 25 years.

2. Mr. Page on his return allocated his time worked by the fraction 45/272. The deficiency notice allocates by the fraction 165/272.

3. Mr. Page spent 107 days in traveling or in locations outside of either New York or Connecticut. There typically were many trips of two or three days each. These included 12 days which were either a Saturday or a Sunday and 95 weekdays. It also includes 28 days from June 17 through July 14 spent in Asia and Europe which, from testimony, are deemed to be vacation days. Mr. Page admits to spending 45 days working in New York State. These were not on weekends. Mr. Page spent 213 days at his home in Connecticut. This includes 93 days on weekends and 120 weekdays. It is these weekdays which are here in dispute.

4. Marts & Lundy has no office or place of business outside of New York although its clients are located throughout the United States. It is in the business of fund-raising and acting as advisors for fund-raising drives conducted by churches, colleges, and schools and hospitals.

5. Marts & Lundy would have many fund-raising campaigns running at once. Each campaign lasts from six months to two years. Each campaign would be under the supervision of one officer in New York City and a campaign director in residence at the clients' location. It employs a staff of writers of which Mr. Page is one. It has office space for five officers and an office manager, a reception area, a conference room, a duplicating room and space for three secretaries. No space is provided for the writers such as Mr. Page either for file space or working space, as their work is considered to be creative and not easily performed in a business office nor during normal business hours.

6. Mr. Page is primarily a writer and describes himself on his tax return as a journalist. His work is primarily to prepare brochures and case statements from the point of view of various individuals or organizations for publication. He prepares from two to six of these for each campaign he works on and he works on as many as seven campaigns at one time.

7. Mr. Page's routine is to visit the client, return home to write, consult with the officers of the firm in New York City, return to the client for further discussions. Mr. Page spends two to three times as much time at home as in his travels.

8. Mr. Page maintains a studio and library at his home. This includes filing space and table space where work can be spread out. The files contain his own prior work and reference material pertaining to writing. They also include much material collected from and about the clients being served including photographs and

graph material. Some of this is sent to him by the taxpayer or by the campaign director in the field. Some is the result of his own field research. Also, he has material on fund-raising generally including statistics and periodicals.

9. Mr. Page's testimony is supported by the testimony of Paul Younger, president of Marts & Lundy.

CONCLUSIONS OF LAW

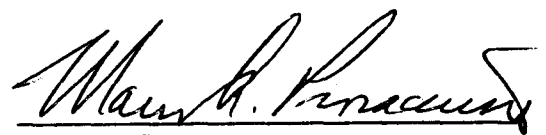
The total working days inside and outside of New York and the denominator of the allocation fraction should be 244 days. This is in revision of both the tax return and the deficiency notice which erroneously include 28 vacation days as work days.

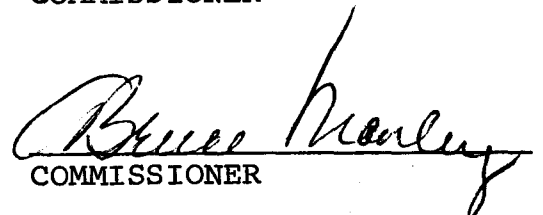
Petitioner must count as days worked in New York, and as the numerator of the allocation fraction, not only the 45 days worked at his employer's office, but also the 120 weekdays he claims to have worked at his home in Connecticut.

The deficiency is recomputed to be \$481.99 plus interest of \$42.08 to the date thereof and such amounts are due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
March 7, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER