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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HUGO PERETTI and JUNE PERETTI

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) 1966

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 31st day of January , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Hugo & June Peretti

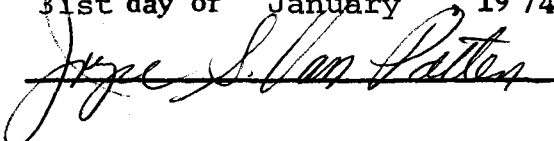
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Hugo Peretti
516 Next Day Hill Drive
Englewood, New Jersey

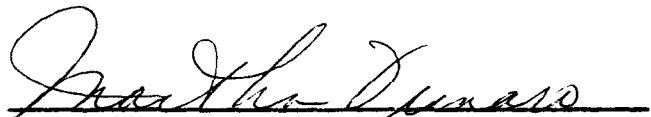
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

31st day of January 1974





STATE OF NEW YORK
STATE TAX COMMISSION

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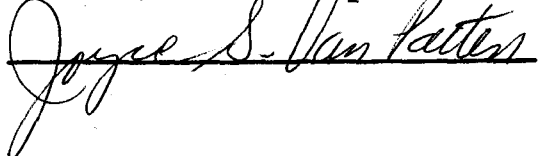
State of New York
County of Albany

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 31st day of January , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Alan I. Jacobson
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Alan I. Jacobson
W.R. Woolf & Co.
1 Lincoln Plaza
New York, New York 10023
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

31st day of January , 1974







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino

~~FORMERLY ALBANY, N. Y. 12226~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York
January 31, 1974

**Mr. & Mrs. Hugo Peretti
516 Next Day Hill Drive
Englewood, New Jersey**

Dear Mr. & Mrs. Peretti:

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,

Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
HUGO PERETTI and JUNE PERETTI	:	DECISION
	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the	:	
Year 1966.	:	

Petitioners, Hugo Peretti and June Peretti, 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 1966. (File No. 53174817). 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 September 21, 1973, at 9:00 A.M. Petitioners appeared by Alan I. Jacobson. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of Counsel).

ISSUE

Was all of the salary income received by petitioner, Hugo Peretti, from Hugo & Luigi Productions, Inc. during the year 1966 allocable to New York State?

FINDINGS OF FACT

1. Petitioners, Hugo Peretti and June Peretti, filed a New York State income tax nonresident return for the year 1966.

They allocated salary income in the sum of \$20,729.00, received by petitioner, Hugo Peretti, based upon the number of days he alleged to have worked within and without New York State during said year. They claimed that he worked a total of 240 days during the year of which 133 days were worked outside of New York State.

2. On February 24, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Hugo Peretti and June Peretti, imposing New York State personal income tax for the year 1966, on \$28,510.00 of income (the amount shown on withholding statements attached to their return), upon the grounds that they failed to establish a basis for allocation. There was also an additional adjustment of \$8.38, which is not being contested by petitioners. The amount of additional income tax alleged to be due was \$1,090.82. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,212.41.

3. Petitioners, Hugo and June Peretti, were residents of the State of New Jersey during the year 1966.

4. Petitioner, Hugo Peretti, was employed by Hugo & Luigi Productions, Inc. during the year 1966. He received a salary from the corporation during said year in the sum of \$28,510.00. The corporation's principal business was to develop new talent and produce recordings. His major duties for the corporation

consisted of finding and developing new artists, auditioning talent, and reading and reviewing scripts and scores for Broadway shows. The corporation's principal place of business and office was located in New York City. It was incorporated in New York State. He owned 50% of the stock of the corporation.

5. Petitioner, Hugo Peretti, worked 132 days outside of New York State during the year 1966. He worked 118 of said days at his home at 516 Next Day Hill Drive, Englewood, New Jersey and 14 days in Connecticut, Pennsylvania, and New Jersey on talent searching and auditioning trips. He worked a total of 240 days during said year of which 108 days were physically worked within New York State.

6. The work performed at his home in New Jersey by petitioner, Hugo Peretti, during the year 1966 consisted of listening to recordings and tapes prepared for auditions, and reading and reviewing scripts and scores for Broadway shows. It was more convenient to perform this work at home since he did not have enough time during the normal business day and he found it difficult to do creative work at the office.

7. Petitioner, Hugo Peretti, failed to submit any documentary or other substantial evidence to prove that he incurred any unreimbursed business expenses in connection with his activities on behalf of Hugo & Luigi Productions, Inc.

CONCLUSIONS OF LAW

A. That the 118 days worked at home in New Jersey during the year 1966 by petitioner, Hugo Peretti, were worked there by reason

of his necessity and convenience and not for the necessity of his employer, and therefore said 118 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 the 14 days worked outside of New York State and not at home by petitioner, Hugo Peretti, during the year 1966, may be allocated as days worked outside of New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and NYCRR 131.16.

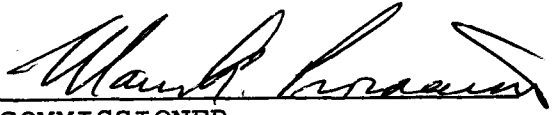
C. That petitioner, Hugo Peretti, failed to substantiate any deductions for unreimbursed employee business expenses for the year 1966 as an employee of Hugo & Luigi Productions, Inc., since he did not submit documentary or other satisfactory evidence to support his claim and therefore he is not entitled to any such deductions against any portion of the salary income of \$28,510.00 attributable to New York State.

D. That the petition of Hugo Peretti and June Peretti is granted to the extent of allowing 14 days out of 240 days worked for Hugo & Luigi Productions, Inc. during the year 1966 as days worked outside of New York State; that their corrected New York taxable income is reduced from \$18,587.37 to \$17,363.10; that additional personal income tax due is reduced from \$1,090.80 to


\$968.39 together with such interest as may be lawfully due; and, that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
January 31, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER