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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LANGBOURNE M. WILLIAMS

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) 1968

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 25th day of June , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Langbourne M.
Williams (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Langbourne M. Williams
Retreat
Rapidan, Virginia 22733

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

25th day of June , 1974

Joyce A. Van Botten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LANGBOURNE M. WILLIAMS

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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) 1968

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 25th day of June , 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Samuel A. Derieux,

C.P.A. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Samuel A. Derieux, C.P.A.
808 Mutual Building
Richmond, Virginia 23219

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

25th day of June , 1974

James A. Vass Ketter

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
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino
~~NORTH HAVEN, CONNECTICUT PRESIDENT~~

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

June 25, 1974

Mr. Langbourne M. Williams
Retreat
Rapidan, Virginia 22733

Dear Mr. Williams:

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,


Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
LANGBOURNE M. WILLIAMS	:	DECISION
	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1968.	:	
	:	
	:	

Petitioner, Langbourne M. Williams, filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 8-29228294).

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 May 23, 1973, at 9:15 A.M. Petitioner appeared by Samuel A. Derieux, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of Counsel).

ISSUE

What portion of the income received by petitioner, Langbourne M. Williams, from Freeport Sulphur Company during the year 1968 was allocable to New York State?

FINDINGS OF FACT

1. Petitioner, Langbourne M. Williams, filed a New York State income tax nonresident return for the year 1968. He claimed on said return that he worked 299 days during said year of which 212 days were worked outside of New York State.

2. On July 30, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Langbourne M. Williams, in which it computed total working days during the year 1968 as 86 days and total days worked outside of New York State as 10 days. In arriving at this computation, it disallowed as a proper basis for allocation of salary 213 days worked by petitioner at home and in performance of other activities during said year. The additional personal income tax due as a result of the aforesaid disallowance was \$9,696.56. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$11,029.90.

3. Petitioner, Langbourne M. Williams, had been a resident of the State of Virginia for many years prior to 1968. He had also maintained an apartment in New York City which he gave up prior to the beginning of 1968. His home in Virginia consisted of a large estate located at Rapidan. Prior to 1968, he built a separate structure for use as an office. It was located approximately 50 yards from his home. The building contained a large office for him, a small office for a secretary and for files and a lavatory. This office was staffed by a secretary on the regular personnel list and payroll of Freeport Sulphur Company commencing March 1, 1968.

4. Petitioner, Langbourne M. Williams, was employed by Freeport Sulphur Company from 1933 until he retired on March 1, 1968. The principal office of the corporation was in New York City. At the time of his retirement, he was Chairman of the Board and Chairman of the Executive Committee, at a salary of \$130,000.00 a year.

He continued as Chairman of the Board at a stipend of \$50,000.00 per year after his retirement. His duties were to be advisory and to act as a consultant. He was to come to New York for board and committee meetings.

5. Robert C. Hills became President and Chief Executive Officer of Freeport Sulphur Company on March 1, 1968. He subsequently became ill and on or about June 1, 1968, petitioner, Langbourne M. Williams, unofficially took over the duties of President and Chief Executive Officer. On October 23, 1968, petitioner was formally designated as Chief Executive Officer by the Board of Directors and his salary fixed at \$130,000.00 per annum, retroactively. He continued to serve this capacity for the remainder of the year. His total compensation received from Freeport Sulphur Company for the year was \$152,250.00.

6. During the period January 1, 1968 through February 28, 1968, petitioner, Langbourne M. Williams, worked a total of 41 days on behalf of Freeport Sulphur Company. This consisted of 21 weekdays and 4 Saturdays or Sundays worked at the office adjacent to his home in Virginia, 14 days worked in New York State and 2 days worked outside of New York State but not at the aforesaid location in Virginia.

7. During the period March 1, 1968 through May 31, 1968, petitioner, Langbourne M. Williams, worked a total of 61 days on behalf of Freeport Sulphur Company. This consisted of 40 weekdays and 1 Saturday or Sunday worked at the office adjacent to his home in Virginia, 12 days worked in New York State and 8 days worked outside of New York State, but not at the aforesaid location in Virginia.

8. During the period June 1, 1968 through December 31, 1968, petitioner, Langbourne M. Williams, worked a total of 159 days on behalf of Freeport Sulphur Company. This consisted of 85 weekdays and 22 Saturdays and Sundays worked at the office adjacent to his home in Virginia, 50 days worked in New York State and 2 days worked outside of New York State, but not at the aforesaid location in Virginia.

CONCLUSIONS OF LAW

A. That during the period from January 1, 1968 through February 28, 1968, and the period from June 1, 1968 through December 31, 1968, petitioner, Langbourne M. Williams, served as full-time employee and corporate officer of Freeport Sulphur Company, and his salary attributable to this period was \$130,000.00. The 106 weekdays worked in the office on his estate in Virginia during said periods 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. The 26 Saturdays and Sundays worked in the office on his estate in Virginia during said periods were also worked there by reason of his necessity and convenience and not for the necessity of his employer and therefore, for purpose of allocation of salary income, said days cannot be included by him in computing total days worked in the year or total days worked outside of New York State during the year in accordance with the aforesaid section and regulation.

The 10 days worked outside of New York State, but not at the office on his estate in Virginia, during said periods, for purposes of allocation, may be allocated as days worked outside of New York and the 64 days actually worked in New York State during said periods must be allocated as days worked in New York State in accordance with the aforesaid section and regulation.

B. That, therefore, for purposes of allocation of \$130,000.00 in salary income received for the periods of January 1, 1968 through February 28, 1968, and June 1, 1968 through December 31, 1968, petitioner, Langbourne M. Williams, worked a total of 180 days of which 170 days are considered to be days worked in New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

C. That during the period from March 1, 1968 through May 31, 1968, petitioner, Langbourne M. Williams, served as Chairman of the Board and a consultant to Freeport Sulphur Company. His income attributable to this period was \$12,500.00. That an allocation of said sum based upon the number of days he actually worked within and without New York State during said period constitutes a fair and equitable allocation of said income in accordance with the meaning and intent of 20 NYCRR 131.21. The allocation formula set forth in 20 NYCRR 131.16 is not applicable since he was not an employee during said period. The allocation formula set forth in 20 NYCRR 131.13 is not applicable since he did not submit books, records, and other evidence that would permit the use of said formulas.

D. That, therefore, for purposes of allocation of \$12,500.00 in income received for the period from March 1, 1968 through May 31, 1968, petitioner, Langbourne M. Williams, worked a total of 61 days of which 12 days are considered to be days worked in New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.21.

E. That the petition of Langbourne M. Williams is granted to the extent of reducing adjusted New York taxable income for the year 1966 from \$114,281.12 to \$106,896.76 and of reducing additional personal income tax due for said year from \$9,696.56 to \$8,650.65 together with such interest as may be lawfully due; that, the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued July 30, 1971; and, that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
June 25, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER