

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

KINNAIRD S. MC QUADE and
JOANNE C. MC QUADE

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year ~~(x)~~ 1970.

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

State of New York
County of Albany

MARY GROFF, 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 17th day of December, 1975, she served the within
Notice of Decision ~~(for Redetermination)~~ by (certified) mail upon KINNAIRD S. MC QUADE
and

JOANNE C. MC QUADE ~~(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. Kinnaird S. McQuade
229 Reily Road
Cincinnati, Ohio 45215

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

17th day of December, 1975.

Janet Mack

Mary Groff

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

KINNAIRD S. MC QUADE and
JOANNE C. MC QUADE

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) 1970.

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

State of New York
County of Albany

MARY GROFF, 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 17th day of December, 1975, she served the within Notice of Decision ~~for Determination~~ by (certified) mail upon CARL E. WILKINSON

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Carl E. Wilkinson
1969 Finsbury Court
Cincinnati, Ohio 45230

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

17th day of December, 1975.

Jane Moad

Mary Groff



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) 457-3336

DATED: Albany, New York
December 17, 1973

Mr. and Mrs. Winnaird S. McQuade
229 Kelly Road
Cincinnati, Ohio 45215

Dear Mr. and Mrs. McQuade:

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

Please take further notice that pursuant to
Section (a) **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,

L. Robert Leisner

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
KINNAIRD S. MC QUADE and JOANNE C. MC QUADE : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1970. :

Petitioners, Kinnaird S. McQuade and Joanne C. McQuade,
229 Reily Road, Cincinnati, Ohio 45215, petitioned for a redeter-
mination of deficiencies in personal income taxes under Article 22
of the Tax Law for the year 1970.

On December 16, 1974, the taxpayers waived a hearing before
the State Tax Commission. The case was submitted for decision on
information contained in the file.

ISSUE

Whether petitioners, Kinnaird S. McQuade and Joanne C. McQuade,
as nonresident individuals, must allocate their entire income to
New York State for income taxes for 1970?

FINDINGS OF FACT

1. Petitioners, Kinnaird S. McQuade and Joanne C. McQuade,
timely filed New York State income tax return for the year 1970.

2. A Notice of Determination of deficiencies in personal income tax for the year 1970 was issued on March 25, 1974, against the taxpayers under File No. 0-53154124.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. Petitioners, Kinnaird S. McQuade and Joanne C. McQuade, resided at 89 Steep Hill Road, Weston, Connecticut, during the year 1970.

5. Petitioner, Kinnaird S. McQuade, was employed by General Foods Corporation, White Plains, New York, as a sales manager during the year 1970. He claimed that he worked outside of New York for 86 working days in 1970 and that none of those days were for work at home. Petitioner brought no evidence to support such claim.

6. Petitioner, Kinnaird S. McQuade, is no longer employed by General Foods Corporation.

CONCLUSIONS OF LAW

A. That petitioners, Kinnaird S. McQuade and Joanne C. McQuade, have failed to substantiate their claim of 86 working days outside New York State for the year 1970.

B. That since petitioner, Kinnaird S. McQuade, has failed to prove that he worked out of New York State in 1970 that his entire income must be allocated to New York State according to the meaning

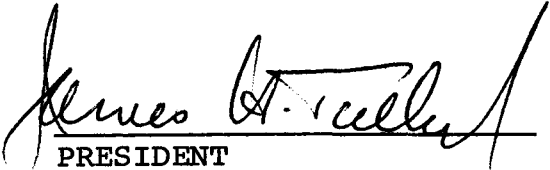
and intent of section 631 of the Tax Law. (Petition of Donnelly,
Decision of the State Tax Commission, December 8, 1971).

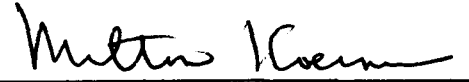
C. The petition is denied and the determination of the deficiency
in income tax is sustained.

D. Pursuant to the Tax Law, interest shall be added to the
total amount due until paid.

DATED: Albany, New York
December 17, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER