

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM A., JR. and DOLORES DOYLE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year (x) ~~or Period (x)~~ 1969. :

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
xhe is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 21st day of December , 1976 , xhe served the within
Notice of Decision by (certified) mail upon William A., Jr. and
Dolores Doyle (~~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. William A. Doyle, Jr.
6 Buffalo Road
North Oaks, Minnesota 55110
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative~~
~~of the~~) 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

21st day of December , 19 76

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor , 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 21st day of December , 1976 , she served the within
Notice of Decision by (certified) mail upon Michael M. Feinstein

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Michael M. Feinstein, Esq.
26 Beaver Street
New York, New York 10004

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative
of the) 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

21st day of December , 19 76

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

December 21, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. William A. Doyle, Jr.
6 Buffalo Road
North Oaks, Minnesota 55110

Dear Mr. & Mrs. Doyle:

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

Please take further notice that pursuant to
Section(2) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

Petitioners, William A., Jr. and Dolores Doyle, 6 Buffalo Road, North Oaks, Minnesota, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1969. (File No. 9-33233730). A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 23, 1976 at 10:45 A.M. Petitioners appeared by Michael M. Feinstein, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq. of counsel).

Was the time worked by petitioner, William A. Doyle, Jr., at his New Jersey home for the New York Daily News during 1969 allocable as days worked without New York State?

1. Petitioners, William A., Jr. and Dolores Doyle, filed a New York State income tax nonresident return for the year 1969. On Schedule A-1, (Allocation of Wage and Salary Income to New York State), they alleged that petitioner, William A. Doyle, Jr., worked 102 days outside New York State and 123 days in New York State during 1969.

2. On January 29, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, William A., Jr. and Dolores Doyle. The Income Tax Bureau disallowed the allocation of working time spent at their New Jersey home upon the grounds that it was not of necessity that the work be performed at home. In accordance with the aforesaid Statement of Audit Changes, a Notice of Deficiency was issued in the sum of \$500.50.

3. Petitioners, William A., Jr. and Dolores Doyle, were residents of New Jersey until November, 1969 at which time they moved to Minnesota.

4. Petitioner, William A. Doyle, Jr., was the Business Editor of the New York Daily News from September, 1966 through October, 1969. The New York Daily News maintains its offices at the News Building in New York City. His position as Business Editor required that he write a financial column for the News.

5. Petitioner, William A. Doyle, Jr., wrote most of his columns at an office maintained in his New Jersey home, rather than in the Daily News office. This was done for the purpose of his having available research and other material necessary to write his column. He maintained an investment research library in his home, which he used to assist him in the preparation of his column.

CONCLUSIONS OF LAW

A. That the petitioner was not required by necessity to perform services for his employer outside New York on the days that he worked at his home in New Jersey, but rather such services were performed there for his greater convenience and that the income derived therefrom

constitutes income attributable to New York sources in accordance with the meaning and intent of section 632(c) of the Tax Law. The nature of his work was such that his employer could have furnished facilities for his use in New York State similar to his facilities in New Jersey.

B. That the petition of William A., Jr. and Dolores Doyle is denied and the Notice of Deficiency issued January 29, 1973 is sustained.

DATED: Albany, New York
December 21, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER