

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD J. & MARGARET D. GOGGIN

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the Year(s) ~~or Period(s)~~  
1968, 1969 and 1971.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Catherine Steele, 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 4th day of October, 1976, she served the within Notice of Decision by (certified) mail upon Richard J. & Margaret D. Goggin (~~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. Richard J. Goggin  
Plumtrees Road, RD #1  
Newtown, Connecticut 06470

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  
4th day of October, 1976.

Catherine Steele

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

October 4, 1976

TELEPHONE: (518) 457-3850

Mr. & Mrs. Richard J. Goggin  
Plumtrees Road, RD #1  
Newtown, Connecticut 06470

Dear Mr. & Mrs. Goggin:

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

Please take further notice that pursuant to  
Section(x) **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*

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~Director, Tax Administration~~

Taxing Bureau's Representative:



FINDINGS OF FACT

Petitioners, Richard J. and Margaret D. Goggin, filed timely New York State income tax nonresident returns for the years 1968, 1969 and 1971. Taxpayer who is a professor of film and television, employed by New York University, allocated on said returns days worked within and without New York State. The allocations with respect to the days worked at his Connecticut home were disallowed and was the basis for the issuance of the Notice of Deficiency and Statement of Audit Changes for the years in question.

Taxpayer's argument was that out of necessity and convenience he was obliged to work at home. In a letter from the dean of the school of arts, the dean states, "it is a time-honored, legitimate and necessary practice of teachers and professors at all universities of doing large and substantial amounts of their school related work at home."

Taxpayers work at home included the preparation of classroom assignments, grading of papers and a multitude of other chores which an instructor must do.

In addition, he availed himself of his extensive collection of books, periodicals and a host of other items not necessarily available in the school library. He did have an office at the school, according to the dean's letter, which was shared with another member of the faculty. It had no "solid floor" and was in the middle of a departmental area in which there were always students coming and going.

At no time during the presentation of his argument did Professor Goggin state that he was contractually obligated to

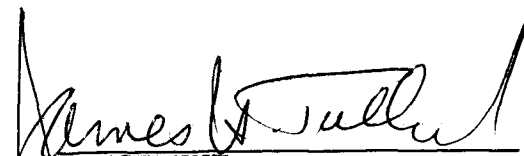
work at home nor was this point suggested by the dean's letter. Instead, he insisted, he worked at home out of necessity and convenience since his materials were stored there and he was not interrupted by phone calls, students and other distractions.

CONCLUSIONS OF LAW

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 Connecticut, 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.

DATED: Albany, New York  
October 4, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER