

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM J. HANNA & JUDITH L. HANNA :

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income Tax :
Taxes under Article (s) 22 of the :
Tax Law for the Year(s) or Period(s) :
1969, 1970 and 1971

State of New York
County of Albany

Marylou Samuels , 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 29th day of November , 1976 , she served the within
Notice of Decision by (certified) mail upon William J. and Judith L.
Hanna ~~(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. William J. Hanna
42 Elm Street
Englewood Cliffs, 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 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

29th day of November , 1976

Janet Mack

Marylou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

November 29, 1976

TELEPHONE: (518) 457-3850

Mr. and Mrs. William J. Hanna
42 Elm Street
Englewood Cliffs, New Jersey

Dear Mr. and Mrs. Hanna:

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 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,

Enc.

Paul B. Coburn
Supervising Tax

cc: ~~Petitioner's Representative~~ Hearing Officer

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM J. HANNA & JUDITH L. HANNA	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1969, 1970 and 1971.	:	

Petitioners, William J. Hanna and Judith L. Hanna, residing at 42 Elm Street, Englewood Cliffs, New Jersey, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969, 1970 and 1971. (File No. 00522).

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 17, 1976, at 1:15 P.M. Petitioner, William J. Hanna, appeared pro se and for his wife, Judith L. Hanna. The Income Tax Bureau appeared by Peter Crotty, Esq., (Arthur Rosen, Esq. of counsel).

ISSUE

Whether the time petitioner, William J. Hanna, worked in his research library at his home in New Jersey and in other out of state

locations in the years 1969, 1970 and 1971, constituted allocable days worked without New York State.

FINDINGS OF FACT

1. Petitioners, William J. Hanna and Judith L. Hanna, filed New York State nonresident income tax returns for the years 1969, 1970 and 1971. On Schedule A-1, "Allocation of Wage and Salary Income to New York State", they alleged that petitioner, William J. Hanna, worked 110, 146 and 126 days outside New York State, in the years 1969, 1970 and 1971, respectively, and accordingly allocated his salary for said years.

2. On June 26, 1972 and August 27, 1973, the Income Tax Bureau issued Statements of Audit Changes against petitioners, William J. Hanna and Judith L. Hanna, revising their allocation of income for the years 1969, 1970 and 1971. It disallowed petitioner, William J. Hanna's allocation of time spent at his research library in New Jersey as days worked outside of New York State for the City University of New York upon the grounds that it was not a proper basis for allocation of income from salary and wages. In accordance with the aforesaid Statements of Audit Changes, it issued Notices of Deficiencies of \$861.83 for the year 1969 and \$3,373.46 for the years 1970 and 1971.

3. Petitioners, William J. Hanna and Judith L. Hanna, were residents of the State of New Jersey during the years 1969, 1970 and 1971.

4. Petitioner, William J. Hanna, was a professor of Political Science at the City University of New York during the years in question. His position involved extensive research, teaching and other miscellaneous activities. Petitioner performed a substantial proportion of his research and class preparation at his library located in his home in Englewood Cliffs, New Jersey. The library contained numerous research items such as field notes, audio tapes, documents and manuscripts. The library was jointly owned by petitioner and his wife, Judith L. Hanna, an educational consultant, under the firm name of Hanna and Hanna Associates. This is an unincorporated association registered as such in the State of New Jersey. Petitioner, William J. Hanna, could not move his research library to New York because his employer did not provide the requisite space, and his wife demanded that the facility be situated in New Jersey.

5. The City University of New York did not require nor recommend that petitioner, William J. Hanna, conduct his research and class preparation at his library in New Jersey.

6. Petitioner, William J. Hanna, worked four days in Montreal in 1969 at an African Studies Association meeting, five days in Los Angeles in 1970 at an American Political Science Association meeting and two days in Chicago in 1971 at a planning session for and meeting of the American Political Science Association.

CONCLUSIONS OF LAW

A. That the time petitioner, William J. Hanna, worked at his home library for the City University of New York during the years 1969, 1970 and 1971 was by reason of his necessity and convenience and not for the convenience and necessity of his employer, and; therefore, the time cannot be considered days worked outside of New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

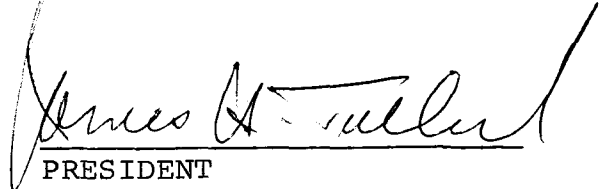
B. That the eleven days worked outside New York State and not at home during the years 1969, 1970 and 1971 by petitioner, William J. Hanna, for purposes of allocation of salary income, are days worked outside New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

C. That the petitions of William J. Hanna and Judith L. Hanna are granted to the extent of reducing additional personal income tax due for the year 1969 from \$861.83 to \$799.89 and the years 1970 and 1971 from \$3,373.46 to \$3,174.65 together with such interest as may be lawfully due; that the Income Tax Bureau is

hereby directed to accordingly modify the notices of deficiencies issued June 26, 1972 and August 27, 1973, and; that, except as so granted, the petitions are in all other respects denied.

DATED: Albany, New York
November 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER