

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ANTHONY JACKSON and JANE JACKSON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(§)~~ 22 of the :  
Tax Law for the Year ~~(§)(b)(1)(A)~~ 1969.:  
~~(§)(b)(1)(A)~~

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 August, 1976, she served the within Notice of Decision by (certified) mail upon Charles Tackman, Haims and Company (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Charles Tackman  
Haims and Company  
Stamford, Connecticut  
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 August, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ANTHONY JACKSON and JANE JACKSON :

AFFIDAVIT OF MAILING

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

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 August, 1976, she served the within Notice of Decision by (certified) mail upon Anthony Jackson and Jane Jackson ~~(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. Anthony Jackson  
31 Hancock Lane  
Darien, Connecticut 06820  
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 ~~(XXXXXX)~~ ~~(XXXXXX)~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(XXXXXX)~~ ~~(XXXXXX)~~ petitioner.

Sworn to before me this

4th day of August, 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

August 4, 1976

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

Mr. & Mrs. Anthony Jackson  
31 Hancock Lane  
Darien, Connecticut 06820

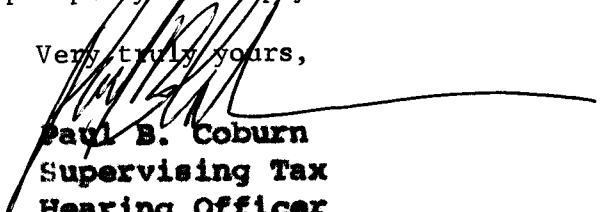
Dear Mr. & Mrs. Jackson:

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

Please take further notice that pursuant to  
Section ~~XX~~ **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,

  
**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ANTHONY JACKSON and JANE JACKSON	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under:	:	
Article 22 of the Tax Law for the Year	:	
1969.	:	

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Petitioners, Anthony Jackson and Jane Jackson, 31 Hancock Lane, Darien, Connecticut 06820, have filed a petition for re-determination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1969. (File No. 9-33215623). A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 14, 1976, at 10:00 a.m. Petitioners appeared by Haims and Company, by Charles Tackman. The Income Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq. of counsel).

#### ISSUES

I. What portion of the \$38,000.00 in wages received by petitioner, Anthony Jackson, from Time, Inc. during 1969 was subject to New York State personal income tax as income derived from

New York State sources attributable to an occupation carried on in New York State?

II. What portion of the \$41,441.00 received by petitioner, Anthony Jackson, during 1969 from the employees' profit sharing plan of Time, Inc. represented capital gains taxable by New York State?

FINDINGS OF FACT

1. Petitioners, Anthony Jackson and Jane Jackson, filed a New York State income tax nonresident return for the year 1969, dated April 10, 1970, wherein they reported total earnings subject to Federal tax in the amount of \$74,021.00 claiming that only \$18,939.00 of those earnings was subject to New York State income tax.

2. On October 30, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Anthony Jackson and Jane Jackson, his wife, wherein it determined that the petitioners' total New York wages and long term capital gain distribution were includable in their New York income; that petitioners had a total New York income of \$71,081.00, and a taxable New York income of \$58,339.00; and that the additional amount of personal income tax due was \$6,016.74, plus interest in the amount of \$917.31. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$6,934.05.

3. On April 9, 1973, petitioners filed a Petition for Redetermination of Deficiency or for Refund of Personal Income Tax or Unincorporated Business Tax for the year 1969, accompanied by an amended New York State nonresident income tax return for 1969. This amended 1969 return reported a total New York income of \$45,528.00 and a taxable New York income of \$36,289.00. The balance of New York State income tax due was set forth therein as \$2,929.00.

4. On August 6, 1973, the Income Tax Bureau issued a proposed redetermination based upon the formula provided under 20 NYCRR 131.18, wherein the petitioners' New York income was determined to be \$30,718.00, plus \$33,466.00 of capital gains applicable to New York State or \$64,184.00; the adjusted New York taxable income was therein determined to be \$52,387.22; and the additional New York tax due was set forth as \$5,183.21.

5. Petitioners, Anthony Jackson and Jane Jackson, his wife, were residents of the State of Connecticut during the year 1969. They resided at 31 Hancock Lane, Darien, Connecticut.

6. At the outset of the calendar year 1969, the petitioner, Anthony Jackson, was employed in New York by Time, Incorporated. Having become ill, he was notified by his employer that his services were no longer required, on January 8, 1969. Nonetheless,

according to petitioner, he was kept on the payroll until June 8, 1969, and thereafter was given severance pay plus a one-half year's salary.

7. After the termination of his employment with Time, Inc., petitioner, Anthony Jackson, was not employed during the balance of 1969.

8. The petitioner, Jane Jackson, was listed as a housewife on the 1969 nonresident New York State income tax return filed by petitioners, and earned no wages during the year 1969.

9. During the year 1969, petitioner, Anthony Jackson, received \$38,038.00 in wages from Time, Inc., together with \$41,441.00 representing distribution of the Time, Inc. employees' profit sharing plan.

10. No written agreement existed between petitioner, Anthony Jackson, and Time, Inc., concerning said petitioner's employment status during 1969.

#### CONCLUSIONS OF LAW

A. That the portion of the \$38,038.00 received by petitioner, Anthony Jackson, between January 1, 1969 and June 8, 1969 represented wages earned from employment conducted within the State of New York.

That the portion of the \$38,038.00 received by petitioner, Anthony Jackson, between June 9, 1969 and December 31, 1969 constituted severance pay, and as such was an item of income derived from or connected with New York sources which was attributable to an occupation carried on in the State of New York.

Therefore, the entire \$38,038.00 earned by petitioner, Anthony Jackson, was subject to New York State personal income tax in accordance with the allocation provisions of 20 NYCRR 131.18.

B. That the \$41,441.00 received by petitioner, Anthony Jackson, during 1969, from the profit sharing plan of Time, Inc. was a capital gain distributed in consideration of services and was therefore taxable within New York State as provided for by section 632(2)(b)(1)(B) of the Tax Law, in accordance with the provisions of 20 NYCRR 131.18, based upon that proportion of his income earned during the taxable year preceding his retirement, and the three taxable years immediately preceding that year, which was taxable within New York State and the total compensation received from the employer during such period for services performed both within and without New York State.

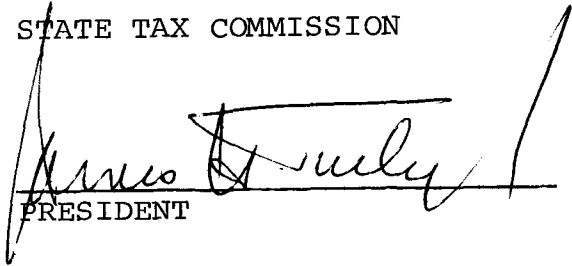
C. That the petition of Anthony Jackson and Jane Jackson is denied and the Notice of Deficiency dated October 30, 1972 is modified, as provided for in the letter of the Income Tax Bureau,




Review Unit, dated August 6, 1973, wherein it is provided that pursuant to a recomputation of the petitioners' New York income tax, the additional New York tax due is redetermined to be \$5,183.21, and as modified, is sustained.

DATED: Albany, New York  
August 4, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER