

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELMER E. JONES & DOROTHY F. JONES

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

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)~~ 1968.

State of New York
County of Albany

Yvette Nackenson, 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 29 day of March, 1976, she served the within Notice of Decision ~~(xxx Deletion xxx)~~ by (certified) mail upon Elmer E. Jones & Dorothy F. Jones ~~(representative of the)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Elmer E. Jones
615 Ocean Drive
Key Biscayne, Florida 33149

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 the)~~ ~~(xx)~~ 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

29 day of March, 1976.

Just Hand

Yvette Nackenson



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) 457-3850

DATED: Albany, New York
March 29, 1976

Mr. & Mrs. Elmer E. Jones
615 Ocean Drive
Key Biscayne, Florida 33149

Dear Mr. & Mrs. Jones:

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

Please take further notice that pursuant to
Section (8) **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,


PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ELMER E. JONES & DOROTHY F. JONES	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1968.	:	

Elmer E. Jones and Dorothy F. Jones, 615 Ocean Drive, Key Biscayne, Florida 33149, filed a petition under section 689 of the Tax Law for the redetermination of a deficiency issued July 27, 1970, in the amount of \$266.78 plus interest of \$20.53 for a total of \$287.31, for personal income tax under Article 22 of the Tax Law for the year 1968. In lieu of a hearing, petitioners submit their case to the Commission on the file of the Income Tax Bureau. Said file has been duly examined and considered.

ISSUE

The issue in this case is whether and in what amount income received by a nonresident who had been a resident is taxable in New York when it was received for back pay and for incentive awards.

FINDINGS OF FACT

1. Petitioners had been residents of Scarsdale, New York, prior to January 1, 1968. Mr. Jones had been employed by Trans World Airlines, Inc. of Kansas City, Missouri, until December 31, 1967, and had worked in New York until then.

2. As of January 1, 1968, Mr. Jones became employed with National Airlines in Miami, Florida, and petitioners moved to Coral Gables, Florida.

3. During 1968, Mr. Jones received \$11,360.42 from his former employer, T.W.A. Of this amount the sum of \$4,027.42 represented back salary. The remainder of \$7,333.00 represented payments under T.W.A.'s Incentive Compensation Plan which is managed by a committee of T.W.A. In 1967, the committee had authorized the payment of \$4,333.00 in installments on awards granted for 1965 and 1966. This sum was paid in January, 1968. In February, 1968, the committee authorized the payment of \$3,000.00 as representing a 1967 award which it paid in March, 1968.

4. The T.W.A. incentive plan provided: "A person to whom an award in cash or stock has been made shall not have any interest in the cash. . . awarded to him until the cash has been paid to him. . ."

An employee"... shall forfeit any installments not yet due... if (1) he is dismissed from, or leaves, the service of the company for any reason other than his death, or retirement... provided, however, that he may continue to hold his rights in respect of such installments to such extent and under such conditions as the committee may determine."

5. Although petitioners filed a nonresident return, no income was assigned to New York. The deficiency is based on assigning to New York, the entire \$11,360.42 received from T.W.A.

CONCLUSIONS OF LAW

All sums received from T.W.A. are clearly related to work performed in New York. Such sums are considered to be from New York sources (Regulation 20 NYCRR 131.4(e)) and accordingly are taxable to non-residents of New York.

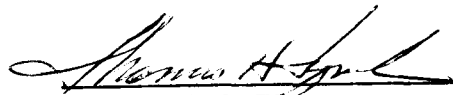
The deficiency is correct and is due together with such further interest as shall be due under section 684 of the Tax Law.

DATED: Albany, New York
March 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER