

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH S. and FLORENCE CHUSID

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (2) 22 of the :
Tax Law for the Year (s) or Period(s) 1971. :

State of New York
County of Albany

Marsina Donnini, 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 22nd day of August, 1977, she served the within Notice of Decision by (certified) mail upon Joseph S. and Florence Chusid ~~x(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph S. and Florence Chusid
256 Fairview Road
Palm Beach, Florida 33480
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

22nd day of August

, 1977.

Marsina Donnini

Just Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH S. and FLORENCE CHUSID

AFFIDAVIT OF MAILING

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

State of New York
County of Albany

Marsina Domini, 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 22nd day of August, 1977, she served the within Notice of Decision by (certified) mail upon James L. Garrity, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: James L. Garrity, Esq.
200 East 42nd Street
New York, New York 10017

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

22nd day of August, 1977.

Marsina Domini

James L. Garrity



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

August 22, 1977

Joseph S. and Florence Chusid
376 Fairview Road
Palm Beach, Florida 33480

Dear Mr. and Mrs. Chusid:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~57~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chynoweth
Hearing Examiner

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE TAX COMMISSION

In the Matter of the Petition :
of :
JOSEPH S. and FLORENCE CHUSID : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Year 1971.: :

Petitioner, Joseph S. and Florence Chusid, residing at 256 Fairview Road, Palm Beach, Florida 33480, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971. (File No. 374). On November 19, 1976, petitioners advised the State Tax Commission that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

Were days worked at home in Florida by petitioners, in the service of their New York employer, allocable as days worked without New York State for income tax purposes?

1. Petitioner, Joseph S. Chusid, was the chief officer of Hub Paint and Varnish Co., Inc. His wife was his assistant.

Petitioners owned the controlling amount of outstanding stock of the corporation. The corporation's only place of business was in New York State.

2. Petitioners moved to Florida in 1970. They contended that they continued to perform services in Florida during the year 1971 for Hub Paint and Varnish Co., Inc. The services they rendered consisted of consulting and other services related to the sale of the corporation's machinery and factory. They also contended that the reason that the services were performed in Florida rather than in New York was that petitioner, Joseph S. Chusid's physician had advised him to get out of business and live in a warmer climate because of his physical condition.

3. For the year 1971, petitioner, Joseph S. Chusid, received \$26,000.00 salary plus a \$35,000.00 bonus, and his wife received \$7,800.00 from the corporation.

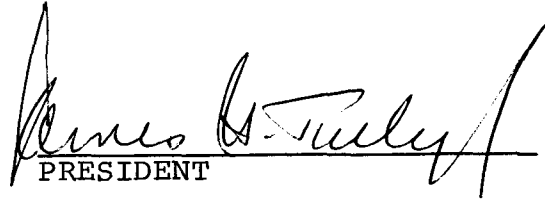
4. That the days worked at home in Florida by petitioners, Joseph S. and Florence Chusid, in the year 1971 were worked there by reason of petitioner's physical condition or convenience and not for the necessity of the employer. Therefore, said days must be held to be days worked within New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

- 3 -

That the petition of Joseph S. and Florence Chusid is denied and the Notice of Deficiency issued November 26, 1973 is sustained.

DATED: Albany, New York
August 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER