

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ALLAN B. and MATHILDE P. CONNAL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (6) 22 of the :
Tax Law for the Year(s) ~~or Period(s)~~ :
1971 and 1972

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 30th day of June, 19 77, she served the within
Notice of Decision by (certified) mail upon Allan B. & Mathilde P.

Connal ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Allan B. & Mathilde P. Connal
65 Edgewater Drive
Old Greenwich, Connecticut 06870

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)~~
~~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

30th day of June, 19 77

Marsina Donnini

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

June 30, 1977

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) 457-1723

Allan B. & Mathilde P. Connal
65 Edgewater Drive
Old Greenwich, Connecticut 06879

Mr. & Mrs. Connal

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

Please take further notice that pursuant to
Section ~~680~~ 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

Supervisor of
Small Claims Hearings

Enc.

cc: ~~Department's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
ALLAN B. and MATHILDE P. CONNAL	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1971 and 1972.	:	

Petitioners, Allan B. and Mathilde P. Connal, residing at 65 Edgewater Drive, Old Greenwich, Connecticut 06870, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1971 and 1972 (File No. 13127).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on August 27, 1976 at 10:45 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Mathilde P. Connal. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq. of counsel).

ISSUES

I. Whether the petitioner, Allan B. Connal, properly allocated his salary income according to the days worked within and without New York State during the years 1971 and 1972.

II. Whether days worked at home during 1971 should be considered as days worked outside New York State for income allocation purposes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners, Allan B. and Mathilde P. Connal, filed 1971 and 1972 New York nonresident income tax returns and allocated thereon the salary income received by petitioner, Allan B. Connal, on the basis of days he alleged to have worked within and without New York State during said years.

2. On March 31, 1975, the Income Tax Bureau issued a Notice of Deficiency against the petitioners for the year 1971 based upon the disallowance of the allocation of wages for failure to sustain the burden of proof regarding the number of days worked within and without New York State in the year 1971.

3. On March 19, 1975, the Income Tax Bureau issued a Notice of Deficiency against the petitioners for the year 1972 upon the grounds that the 1972 salary income of Allan B. Connal was allocable to New York State upon the ratio that 151 days bears to 286 days rather than the ratio that 107 days bears to 229 days.

4. On December 10, 1975, the Income Tax Bureau notified the petitioners that the allocation of wages of petitioner, Allan B. Connal, was being revised to an allocation of 1971 wages on the ratio that 181 days bears to 256 days and to an allocation of 1972

wages on the ratio that 151 days bears to 276 days. In determining the revised allocations, the Income Tax Bureau counted 30 Saturdays and Sundays in 1971 and 10 Saturdays and Sundays in 1972 on which petitioner, Allan B. Connal, worked at his home in Connecticut as days worked in New York State for allocation purposes on the basis that he worked at this home for his own convenience. Petitioner, Allan B. Connal, previously reported these Saturdays and Sundays as non-working days in his allocation of wages for 1971 and 1972. Since petitioner, Allan B. Connal's employer gave him 30 weekdays off work in 1971 and 10 weekdays off work in 1972 to compensate him for the Saturdays and Sundays he worked in 1971 and 1972, the Income Tax Bureau counted said days as non-working days in the revised allocation. Allowance was also made in the revised allocations for those Saturdays and Sundays in 1971 and 1972 on which petitioner, Allan B. Connal, worked outside New York State at location other than at his home in Connecticut. He previously claimed these Saturdays and Sundays as non-working days.

5. Petitioner, Allan B. Connal, is employed by the National Broadcasting Company (NBC) as executive producer of sports. In this position, he is required to render services at his home in Old Greenwich, Connecticut, when the regular NBC facilities are not available. At its own expense, NBC provides the petitioner with television sets and private telephone service to NBC studios and to their mobile units.

6. Petitioner asserted that he is required to work at home for the convenience of NBC, since it would be expensive for them to open their facilities for him during weekends and/or holidays.

7. That the days on which petitioner, Allan B. Connal, worked at his home in Connecticut in 1971 and 1972 were days worked there for his convenience and not for the necessity of his employer and, therefore, said days constituted days worked within New York State for income allocation purposes within the meaning and intent of 20 NYCRR 131.16.

8. That petitioner, Allan B. Connal, should have allocated his salary for 1971 on the ratio that 181 days bears to 256 days and he should have allocated his salary for 1972 on the ratio that 151 days bears to 276 days and that the Income Tax Bureau is hereby directed to accordingly modify the notices of deficiency issued on March 31, 1975 and March 19, 1975 to petitioners, Allan B. and Mathilde P. Connal, to reflect these revised allocations and to include such interest as is legally due under the Tax Law for said years.

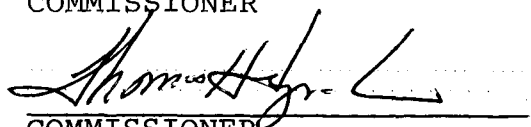
9. That the petitions of Allan B. and Mathilde P. Connal for the years 1971 and 1972 are granted only to the extent indicated in number 8 above and are in all other respects denied.

DATED: Albany, New York
June 30, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER