

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM C. FREUND

AFFIDAVIT OF MAILING

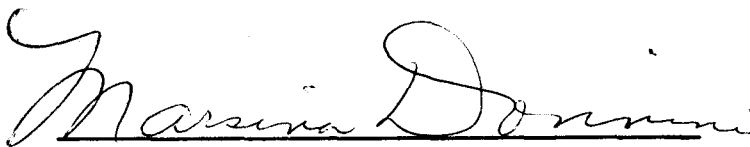
For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year (x) ~~xxx~~ Period (s) 1972.:
~~xxxxxx~~

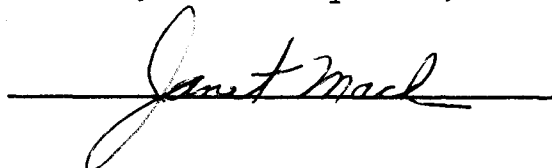
State of New York
County of Albany

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 27th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon William C. Freund
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. William C. Freund
64 Circle Drive
Millington, New Jersey 07946
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
27th day of July, 1977.







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

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

July 27, 1977

Mr. William C. Freund
64 Circle Drive
Millington, New Jersey 07946

Dear Mr. Freund:

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(x) **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 Chyrywaty
Hearing Examiner

cc: ~~Section 690 Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM C. FREUND	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1972.	:	

Petitioner, William C. Freund, residing at 64 Circle Drive, Millington, New Jersey 07946, has 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 1972. (File No. 12086).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on February 16, 1977, at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, William C. Freund, appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq., of counsel).

ISSUE

Were days worked by petitioner, William C. Freund, at his home in New Jersey during 1972 allocable as days worked without New York State?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, William C. Freund, was a resident of the State of New Jersey during the year 1972.

2. He timely filed a 1972 New York State nonresident income tax return on which he combined his 1972 salary from the New York Stock Exchange and from the Graduate School of Business Administration of New York University and allocated the sum of said salary on the basis of the days he worked within and without New York State, including days on which he worked at his home.

3. On October 27, 1975, the Income Tax Bureau issued a Notice of Deficiency asserting additional personal income tax against the petitioner. The deficiency was based upon the Bureau's findings that the wages from New York University were taxable in full to New York State without allocation and the allocation of wages from the New York Stock Exchange improperly included days worked at home as days worked outside New York State. The latter adjustment is not being contested by petitioner.

4. During the year 1972, petitioner, William C. Freund, was an adjunct professor at the Graduate School of Business Administration of New York University. His duties consisted primarily of supervising students in the writing of M.B.A. theses.

5. New York University did not provide petitioner with an office in which to work nor did it provide any desk or work space.

6. Petitioner met with students in his office at the New York Stock Exchange when personal interviews were necessary. He reviewed theses submitted by students at his home in New Jersey, where he maintained a library which was needed to properly analyze and evaluate said theses.

7. Petitioner contended that the days on which he worked at home in New Jersey reviewing theses should be counted for income allocation purposes as days on which he worked outside New York State for the necessity of New York University.

8. That the days worked at home by petitioner, William C. Freund, were worked there by reason of his convenience and not for the necessity of his employer. Said days, therefore, 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 Regulation 20 NYCRR 131.16.

9. That the petition of William C. Freund is denied and the Notice of Deficiency in the amount of \$151.50 issued October 27, 1975 is sustained.

DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER