

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PETER C. and NANCY F. LODER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the Year(s) ~~1970 and 1971~~ :
1971 and 1972

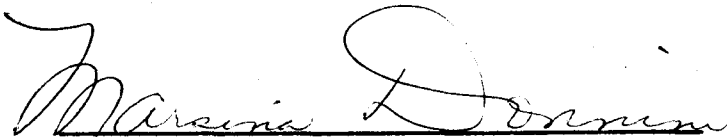
State of New York
County of Albany

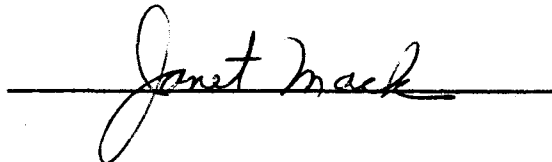
Marsina Donnini, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 22 day of July, 1977, she served the within Notice of Decision by (certified) mail upon Peter C. and Nancy F. Loder ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Peter C. & Nancy F. Loder
P.O. Box 159
Waldwick, New Jersey 07463
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)~~ ~~XXXX~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(representative of the)~~ ~~XXXXXXXXXXXXXXXXXXXX~~ petitioner.

Sworn to before me this

22 day of July, 1977.


Marsina Donnini


Janet Mack



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 22, 1977

Peter C. & Nancy F. Loder
P.O. Box 159
Waldwick, New Jersey 07463

Dear Mr. & Mrs. Loder:

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(s) **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: ~~Notations to Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
PETER C. and NANCY F. LODER	:	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, Peter C. and Nancy F. Loder, P.O. Box 159, Waldwick, New Jersey 07463, 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. 13283).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on September 17, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq., of counsel).

ISSUE

Whether days worked at home can be considered as days worked outside the State of New York for income allocation purposes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Peter C. Loder, is a resident of New Jersey, and during 1971 and 1972, was employed by Community Research Associates, from their offices in New York City.

2. Petitioners, Peter C. and Nancy F. Loder, filed New York State nonresident income tax returns for 1971 and 1972 on which the salary income of petitioner, Peter C. Loder, was allocated on the basis of the days worked within and without New York State.

3. Petitioner, Peter C. Loder, is a Research Analyst with the responsibility of doing developmental work in the field of public policy analysis. As such, he continuously uses his own books, documents, professional journals and clippings that number in the thousands which are located at his home.

4. Although Community Research Associates provided the petitioner with a small office, these facilities did not provide the space and research materials needed in the performance of his services.

5. During 1971 and 1972, the petitioner rendered services in New York State for a total of 66 days and 46 days, respectively. He also worked at his home in New Jersey on 139 days in 1971 and on 155 days in 1972.

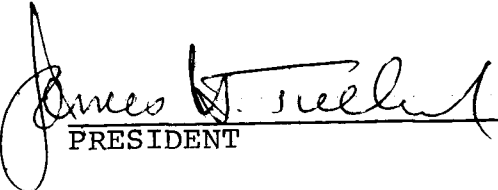
6. The days worked at home were for the convenience of petitioner, Peter C. Loder, and not for the necessity of the employer. Accordingly, the days worked at home must be held to be days worked in New York State within the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

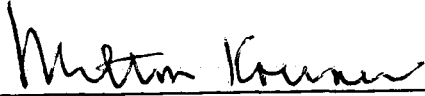
7. The petition of Peter C. and Nancy F. Loder is denied and the Notice of Deficiency issued March 31, 1975 in the sum of \$693.12 is sustained together with such additional interest as may be due in accordance with the Tax Law.

DATED: Albany, New York

July 22, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER