

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HERBERT AND ESTELLE MEISLICH

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) 1972~~ :  
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 24 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Herbert & Estelle Meislich ~~representative of~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Herbert Meislich  
338 Lacey Drive  
New Milford, New Jersey 07646  
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

24 day of August, 1977

Marsina Donnini

Janet Mack



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

August 24, 1977

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

Mr. & Mrs. Herbert Meislich  
338 Lacey Drive  
New Milford, New Jersey 07646

Dear Mr. & Mrs. Meislich:

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: ~~Petitioner's Representative~~  
~~Taxing Bureau's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
HERBERT AND ESTELLE MEISLICH	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1972.	:	

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Petitioners, Herbert and Estelle Meislich, residing at 338 Lacey Drive, New Milford, New Jersey 07646, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Articles 22 of the Tax Law for the year 1972. (File No. 13809).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 28, 1977 at 9:15 a.m. Petitioner, Herbert Meislich, appeared pro se and for his wife and by Morris H. Talish, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frances Cosgrove, Esq. of counsel).

#### ISSUE

Were days worked at home in New Jersey in the service of his New York State employer a proper basis for allocation of income as to days worked within and without New York State during the year 1972?

FINDINGS OF FACT

1. Petitioner, Herbert Meislich, was a chemistry professor at City College in New York City. He lectured three or four days a week at school and spent sixty days during the year 1972 doing research and preparing lecture notes at home in New Jersey.

2. The college provided petitioner with a desk, a file cabinet and a small bookcase at the school. An extensive library was also available at the campus. The college did not direct petitioner to work at his home in New Jersey.

3. Petitioner contended that, at the school, interruptions by students interfered with his research, and that books were often loaned out or misplaced at the school library. He also contended that his available time was utilized more efficiently by working at his home and local New Jersey libraries rather than at the school.

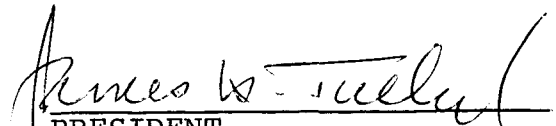
CONCLUSIONS OF LAW

A. That the sixty days worked at home in New Jersey by petitioner, Herbert Meislich, during the year 1972 were worked there by reason of his own necessity and convenience and not for the necessity of his employer and should not be considered days worked outside of New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

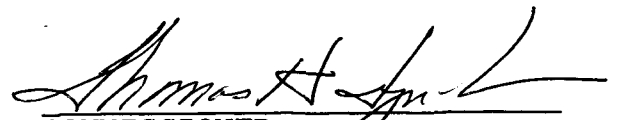
B. That the petition of Herbert and Estelle Meislich is denied and the Notice of Deficiency in the amount of \$460.22 issued November 25, 1974 is sustained.

DATED: Albany, New York  
August 24, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER