

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NORBERT I. & MARSHA H. SWISLOCKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(ss)~~ 22 of the  
Tax Law for the Year ~~(XXXXXX)~~  
1972

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that

~~She~~ He is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 27 day of April, 1977, ~~He~~ He served the within

Notice of Decision by (certified) mail upon Norbert I. &

Marsha H. Swislocki (~~XXXXXXXXXXXX~~) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. & Mrs. Norbert I. Swislocki

217 Everett Place

Englewood, New Jersey 07631

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 (~~XXXXXXXXXXXX~~  
~~XXXXXX~~) petitioner herein and that the address set forth on said wrapper is the  
last known address of the (~~XXXXXXXXXXXX~~) petitioner.

Sworn to before me this

27 day of April, 1977

Bruce Batchelor

Janet Walsh



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

April 27, 1977

TELEPHONE: (518) 457-1723

Norbert I. & Marsha H. Swislocki  
217 Everett Place  
Englewood, New Jersey 07631

Dear Mr. & Mrs. Swislocki:

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

Please take further notice that pursuant to  
Section (a) **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*

FRANK J. PUCCIA  
Supervisor of  
Small Claims Hearings

Enc.

cc: ~~Petitioner's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition  
of  
NORBERT I. and MARSHA H. SWISLOCKI  
for Redetermination of a Deficiency or  
for Refund of Personal Income Taxes under  
Article 22 of the Tax Law for the Year  
1972.

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DECISION

Petitioners, Norbert I. and Marsha H. Swislocki, residing at 217 Everett Place, Englewood, New Jersey 07631, 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 year 1972 (File No. 2-23174261).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on September 15, 1976 at 2:45 P.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, Marsha H. Swislocki. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

ISSUE

Whether the days worked at home in New Jersey by petitioner, Norbert I. Swislocki, while employed by Hunter College during the year 1972, are days worked outside New York State.

FINDINGS OF FACT

1. Petitioners, Norbert I. and Marsha H. Swislocki, timely filed a New York State nonresident income tax return for the year 1972. They allocated the income received by the petitioner, Norbert I. Swislocki, as to days worked within and without New York State. Petitioner, Norbert I. Swislocki, claimed on said allocation, 38 days as days worked outside New York State.

2. On August 25, 1975, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners, Norbert I. and Marsha H. Swislocki. The Income Tax Bureau recalculated the allocation of petitioner, Norbert I. Swislocki's income received from Sloan Kettering Institute for Cancer Research. The petitioners did not contest this issue. The Income Tax Bureau also held that wages received from Hunter College were fully taxable to New York State since time spent at home is not recognized as a proper basis for allocation of wage and salary income. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$265.42.

3. Petitioners, Norbert I. and Marsha H. Swislocki, were residents of the State of New Jersey during the year 1972.

4. During the year 1972, the petitioner, Norbert I. Swislocki, was employed on a part-time basis by Hunter College, C.U.N.Y. to teach two semesters of a biology course. Under the conditions of his employment, petitioner, Norbert I. Swislocki, was required to deliver lectures, lead students in discussions,

prepare and grade examinations and evaluate written laboratory reports.

5. Petitioner, Norbert I. Swislocki, asserted that Hunter College did not provide office space. That the texts which he used as sources for his lectures were his personal property and were located in his study at his home.

6. Petitioner, Norbert I. Swislocki, claimed 200 working hours, or equivalent to 25 workdays as days worked outside New York State, to prepare lectures, examinations and laboratory work, and grade assignments and examinations.

CONCLUSIONS OF LAW

A. That the 25 days worked at home in New Jersey by petitioner, Norbert I. Swislocki, during the year 1972 were days worked there by reason of his necessity and convenience and not for the convenience of his employer and therefore said time cannot be considered to be 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 Norbert I. and Marsha H. Swislocki is denied and the Notice of Deficiency issued August 25, 1975 is sustained.

DATED: Albany, New York  
April 27, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER