

STATE OF NEW YORK.
STATE TAX COMMISSION

In the Matter of the Petition

of

HOWARD K. WEBER and NAOMI WEBER :

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(s) ~~or 21 and 22~~ :
1968 and 1969.

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 21st day of June , 1977, she served the within
Notice of Decision by (certified) mail upon Howard K. Weber &
Naomi Weber (~~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. Howard K. Weber
116 Pershing Road
Englewood Cliffs, New Jersey 07632

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

21st day of June , 1977.

Marsina Donnini

Janet Mack



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

June 21, 1977

TELEPHONE: (518) 457-1723

Mr. & Mrs. Howard K. Weber
116 Pershing Road
Englewood Cliffs, New Jersey 07632

Dear Mr. & Mrs. Weber:

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

Please take further notice that pursuant to
Section(8) **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: ~~XXXXXXXXXXXXXXXXXXXX~~
~~Petitioner's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
HOWARD K. WEBER and NAOMI WEBER	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1968 and 1969.	:	

Petitioners, Howard K. Weber and Naomi Weber, residing at 116 Pershing Road, Englewood Cliffs, New Jersey 07632, 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 1968 and 1969 (File No. 9-49182978).

A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, on September 22, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner, Howard K. Weber, appeared pro se and for his wife, petitioner, Naomi Weber. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Whether days worked at home by petitioner, Howard K. Weber, during the years 1968 and 1969 were days worked outside of New York State.

FINDINGS OF FACT

1. Petitioners, Howard K. Weber and Naomi Weber, filed New York State income tax nonresident returns for the years 1968 and 1969.

2. On April 10, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Howard K. Weber and Naomi Weber, for the years 1968 and 1969 imposing additional income tax due upon the grounds that petitioner, Howard K. Weber, improperly allocated days worked at his home in New Jersey as days worked outside of New York State. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,751.69.

3. Petitioners, Howard K. Weber and Naomi Weber, were nonresidents of New York State during the years 1968 and 1969.

4. During the years 1968 and 1969, petitioner, Howard K. Weber, designed and sold business forms for Madison Business Forms Incorporated, a New Jersey corporation with administrative offices located in New Jersey. Petitioner was assigned to and furnished an office at said location. His work required that he be in New York on a regular basis for the purpose of selling forms and obtaining the information necessary to the design of forms. When not in New York State, his working time was spent

on business trips, at his employer's offices in New Jersey and at an office he maintained in his New Jersey home.

5. Madison Business Forms Incorporated maintains an office in New York City which consists of four rooms, with desks, and a telephone. Said office is not staffed with clerical personnel. The main purpose of the aforesaid New York City office is to afford those sales employees assigned solely to New York State clients, working and conference space while in New York. During 1968 and 1969, petitioner, Howard K. Weber, when in New York, used the New York City office to make telephone calls and to complete miscellaneous paper work which did not require the facilities available to him at his office in Clifton, New Jersey. He was not assigned to the New York City office.

6. Petitioner, Howard K. Weber's drawing equipment and research materials are located at either his office in New Jersey or at his home in New Jersey. He did not maintain any such equipment or materials in the New York City office.

CONCLUSIONS OF LAW

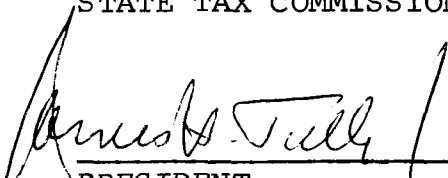
A. That, the facts show that petitioner, Howard K. Weber, is assigned to his employer's New Jersey office and not to his employer's New York City office. If petitioner had not spent

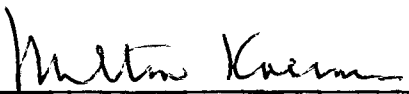
days working at his New Jersey home, he would have reported to his assigned office, also located in New Jersey, and not to the New York City office where he does not have the necessary equipment and materials to perform his work. Therefore, petitioner properly allocated days worked at home during the years 1968 and 1969 as days worked outside of New York State.

B. That, the petition of Howard K. Weber and Naomi Weber is granted and the Notice of Deficiency issued on April 10, 1972, is cancelled.

DATED: Albany, New York
June 21, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER