

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD I. and JANET B. HOROWITZ

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 ~~(six or Period(s))~~ 1972. :

AFFIDAVIT OF MAILING


State of New York
County of Albany

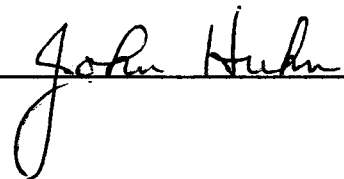
John Huhn , being duly sworn, deposes and says that
~~x~~he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of April , 1978, ~~x~~he served the within
Notice of Decision by (certified) mail upon Leonard I. & Janet B.
Horowitz ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Leonard I. Horowitz
11 Highwood Road
Westport, Connecticut 06880

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
24th day of April , 1978.







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

April 24, 1978

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

Mr. & Mrs. Leonard I. Horowitz
11 Highwood Road
Westport, Connecticut 06880

Dear Mr. & Mrs. Horowitz:

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 ~~(8)~~ **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 Chyrywat
Hearing Examiner

cc: ~~Taxpayer's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
LEONARD I. and JANET B. HOROWITZ : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for the :
Year 1972. :
:

Petitioners, Leonard I. and Janet B. Horowitz, residing at 11 Highwood Road, Westport, Connecticut 06880, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972 (File No. 11736).

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 May 25, 1977 at 1:15 P.M. Petitioner Leonard I. Horowitz appeared pro se and for his wife, petitioner Janet B. Horowitz. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether days worked in Connecticut by nonresident petitioner Leonard I. Horowitz in the service of his New York State employer, were allocable as days worked without New York State for personal income tax purposes.

FINDINGS OF FACT

1. Petitioners filed a New York State personal income tax nonresident return for the year 1972 in which petitioner Leonard I. Horowitz allocated 176 days as days worked without New York and 11 days as days worked within New York in the service of a New York State employer. The Income Tax Bureau contended that the income received from petitioner Leonard I. Horowitz's New York employer was for services which could have been performed in New York State and that, therefore, all of said income was subject to New York State personal income tax without allocation.

2. Petitioner Leonard I. Horowitz, a nonresident, was a full-time employee of Bangor Punta Corporation. Said corporation has been located in Connecticut since 1968. On January 17, 1972, Bangor Punta Corporation and Manati Industries, Inc., a related New York corporation, entered into a written agreement to employ petitioner jointly. Petitioner was to devote half of his time to each employer,

and each employer would pay half of his salary. The agreement provided that petitioner was to do the work required for Manati Industries, Inc. at the offices of Bangor Punta Corporation in Connecticut. This written agreement remained in effect until October 31, 1972, when petitioner returned to full-time employment with Bangor Punta Corporation. During the agreement period, petitioner worked 11 days in New York State for Manati Industries, Inc. No office facilities were provided for petitioner by Manati Industries, Inc. at their New York place of business.

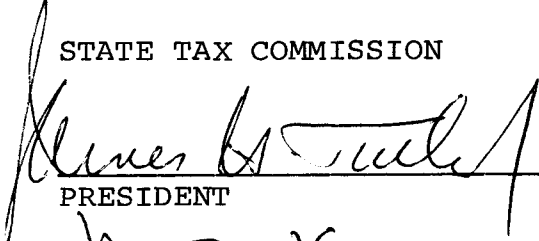
CONCLUSIONS OF LAW

A. That nonresident petitioner Leonard I. Horowitz was obligated by his employer to perform services for 176 days without New York State. Said days worked without New York State were not worked there for reasons of petitioner's convenience. Therefore, only 11 days worked in New York State are allocable as days worked within New York State in accordance with the meaning and intent of section 632 of the Tax Law and 20 NYCRR 131.16.

B. That the petition of Leonard I. and Janet B. Horowitz is granted and the Notice of Deficiency issued November 24, 1975 in the amount of \$317.80 is cancelled.

DATED: Albany, New York
April 24, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



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

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

April 24, 1978

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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

SMALL CLAIMS

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

for file

Mr. & Mrs. Leonard I. Horowitz
11 Highwood Road
Westport, Connecticut 06880

HOROWITZ

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5-12

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

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for Refund of Personal Income Tax
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CONCLUSIONS OF LAW

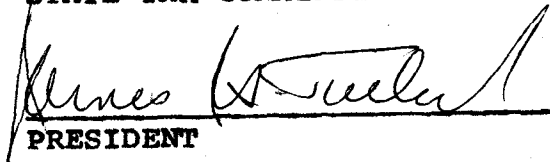
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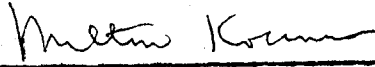
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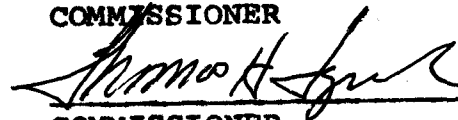
DATED: Albany, New York

April 24, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER