

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT J. and ANN ALBERT

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 (x) or Period (s) :  
1969

State of New York  
County of Albany

John Huhn

, being duly sworn, deposes and says that

He is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 16th day of March , 1978, He served the within

Notice of Decision

by (certified) mail upon Robert J. and Ann Albert

(representative of) the petitioner in the within proceeding,

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

as follows: Robert J. and Ann Albert

484 Wire Mill Road

Stamford, Connecticut 06903

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)  
(x) 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

16th day of March , 1978.

Janet Mack

John Huhn

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT J. and ANN ALBERT

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(§)~~ 22 of the :  
Tax Law for the Year ~~(§) or Period(s)~~ :  
1969

State of New York  
County of Albany

John Huhn, 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 16th day of March, 1978, she served the within  
Notice of Decision by (certified) mail upon William J. Spiegel, CPA  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: William J. Spiegel, CPA  
12 East Park Drive  
Old Bethpage, New York 11804  
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

16th day of March, 1977.

Janet Mack

John Huhn



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

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

March 16, 1978

Robert J. and Ann Albert  
484 Wire Mill Road  
Stamford, Connecticut 06903

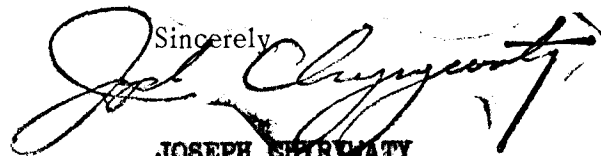
Dear Mr. & Mrs. Albert:

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(x) **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 CHIRAWATY**  
**HEARING EXAMINER**

cc: Petitioner's Representative  
  
Taxing Bureau's Representative

## STATE TAX COMMISSION

of :

for Redetermination of a Deficiency or :  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Year :  
1969. :

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 June 27, 1977 at 1:15 P.M. Petitioners appeared by William Spiegel, CPA. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

II. Whether petitioner Robert J. Albert was entitled to allocate his wages on the basis of days worked within and without New York State during the year 1969.

FINDINGS OF FACT

1. Petitioners filed a New York State personal income tax nonresident return for the year 1969, in which they claimed a business loss in the amount of \$3,573.00 and a deduction for taxes in the amount of \$1,809.00. Petitioner Robert J. Albaert reported his wages as taxable in full without an allocation, based on days worked within and without New York State.

2. The Income Tax Bureau contended that petitioners failed to substantiate the entire business loss, as well as \$893.00 of the tax deduction claimed. Accordingly, it issued a Notice of Deficiency on May 22, 1972 in the amount of \$331.96, plus \$41.88 in interest, for a total due of \$373.84.

3. Petitioners agreed that the business loss and the tax deduction were properly disallowed by the Income Tax Bureau. Petitioner Robert J. Albert contended that he had worked outside New York State approximately one-third of his total working days in the year 1969, but that his accountant had failed to make such allocation on the tax return. No documentary or other substantial evidence was submitted to support his contention.

CONCLUSIONS OF LAW

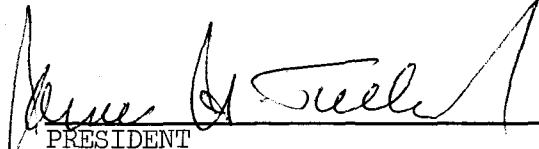
A. That petitioners, Robert J. and Ann Albert, by their own admission, did not properly deduct amount claimed for a business loss and taxes.

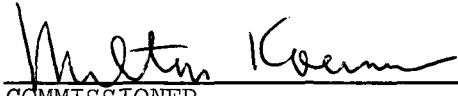
B. That petitioners have not sustained the burden of proof required (in accordance with section 689(e) of the Tax Law) to establish that any days were worked by Robert J. Albert outside New York State during the year 1969.

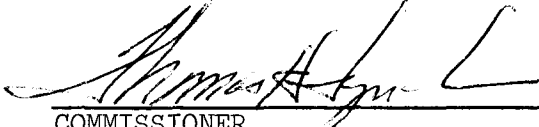
C. That the petition of Robert J. and Ann Albert is denied and the Notice of Deficiency issued May 22, 1972 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York  
March 16, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER