

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HUGO R. and JEANNE P. PERSON

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

State of New York
County of Albany

John Huhn

, being duly sworn, deposes and says that

~~He~~ she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 22 day of March , 1978, ~~he~~ she served the within

Notice of Decision by (certified) mail upon Hugo R. & Jeanne P.
Person

~~XXXXXXXXXXXXX~~
~~(representative of)~~ the petitioner in the within proceeding,

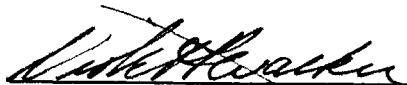
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
Hugo R. & Jeanne P. Person
as follows: R.R. #1, Box 39
Boone Circle
Westbrook, Connecticut 06498

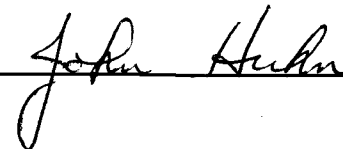
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~XXXXXXXXXXXXX~~
~~XXXXXXXX~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~XXXXXXXXXXXXX~~
~~(representative of the)~~ petitioner.

Sworn to before me this

22 day of March , 1978.







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 22, 1978

Hugo R. & Jeanne P. Person
R.R. #1, Box 39
Boone Circle
Westbrook, Connecticut 06498

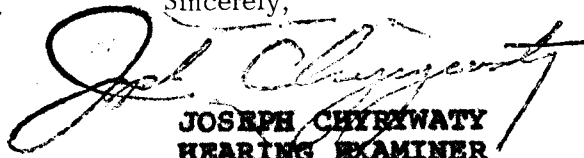
Dear Mr. & Mrs. Person:

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 ~~XX~~ **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

~~XX~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
HUGO R. and JEANNE P. PERSON	:	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, Hugo R. and Jeanne P. Person, R.R. #1, Box 39, Boone Circle, Westbrook, Connecticut 06498, 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. 16818).

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 30, 1977 at 1:15 P.M. The petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether the days on which petitioner Hugo R. Person worked at his home in Connecticut in 1972 constituted days worked outside New York State in his determination of income from wages allocable to New York State for income tax purposes.

FINDINGS OF FACT

1. Petitioners, Hugo R. and Jeanne P. Person, filed a New York State personal income tax nonresident return for the year 1972, on which petitioner Hugo R. Person reported 51 days which he worked at home as days worked outside of New York State.

2. The Income Tax Bureau contended that the days worked at home were worked there for petitioner's own convenience and not for the necessity of his New York State employer. Accordingly, the Income Tax Bureau counted the 51 days worked at home as being days worked within New York State. Thus, it adjusted the allocation of wages reported on petitioners' return. On November 25, 1974, a Notice of Deficiency was issued against petitioners in the amount of \$296.29, representing additional personal income tax and interest due.

3. Petitioner Hugo R. Person was employed by Tri-Wall Containers, Inc., located in Woodbury, New York. In 1971 petitioner became regional sales manager and, by mutual agreement with his employer, set up an office in his home. During 1972 he spent 51 days working at said office. He supervised three salesmen in his assigned territory, which included New England and New York State (except New York City). He was not assigned office space by his employer at its place of business in New York,

nor was he reimbursed by his employer for his home-office expenses. He claimed these expenses totaling \$479.00 on his Federal tax return.

4. Neither Tri-Wall Containers, Inc.'s order forms, nor its telephone directory listings identified petitioner's address to be that of a regional office. There was no sign or other indication at petitioner's home showing it to be a regional office and there was no regional office stationery. The services that petitioner performed at his home could have been performed at his employer's place of business.

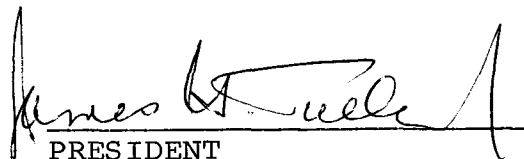
CONCLUSIONS OF LAW

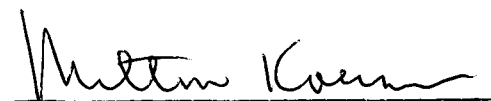
A. That the days worked at home in Connecticut by petitioner Hugo R. Person during the year 1972, were worked there by reason of his own convenience and not for the necessity of his employer; therefore, they should not be considered days worked outside New York State in accordance with the meaning and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

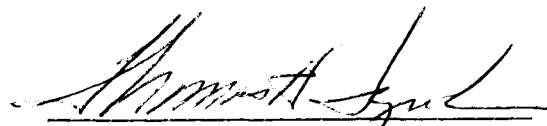
B. That the petition of Hugo R. and Jeanne P. Person is denied and the Notice of Deficiency issued November 25, 1974 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
March 22, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER