

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RALPH F. AND ANN S. TIMM

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 ~~XXXXXX~~ ~~XXXXXX~~ :  
1972

State of New York  
County of

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 24th day of April, 1978, she served the within  
Decision by (certified) mail upon Ralph F. & Ann S. Timm

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Ralph F. and Ann S. Timm  
72 Sanfordtown Road  
West Redding, Connecticut 06896

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~~  
~~XXXXXX~~ ~~XXXXXX~~ 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.

SP Walker

John Huhn



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

Ralph F. and Ann S. Timm  
72 Sanfordtown Road  
West Redding, Connecticut 06896

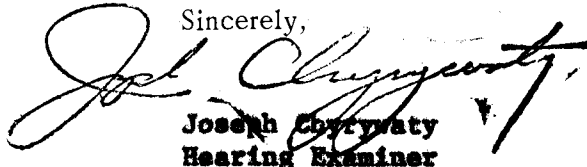
Dear Mr. & Mrs. Timm:

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 ~~(2)~~ **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 Chynoweth  
Hearing Examiner

~~cc: Petitioner's Representative~~  
~~cc: Taxing Bureau's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
RALPH F. AND ANN S. TIMM	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

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Petitioners, Ralph F. and Ann S. Timm, 72 Sanfordtown Road, West Redding, Connecticut 06896, 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. 14098).

A small claims hearing was held before Philip Mercurio, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 15, 1977 at 1:15 P.M. Petitioner Ralph F. Timm appeared pro se and for his wife, petitioner Ann S. Timm. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether days worked at home by petitioner Ralph F. Timm in Connecticut during the year 1972 can be considered days worked without New York State for income allocation purposes.

FINDINGS OF FACT

1. Petitioners, Ralph F. and Ann S. Timm, filed a New York State nonresident income tax return for the year 1972. They allocated the income received by petitioner Ralph F. Timm on the basis of the ratio that the number of days he alleged to have worked within New York State bore to the total days worked during said year.

2. On January 26, 1976, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners in which it corrected the total nonworking days claimed and counted the days worked at home during 1972 by petitioner Ralph F. Timm as days worked within New York State. Accordingly a Notice of Deficiency was issued against petitioners on January 26, 1976.

3. Petitioners were residents of West Redding, Connecticut, during 1972.

4. Petitioner Ralph F. Timm was employed by Condé Nast Publications, Inc. as publisher of Glamour magazine, with offices located in New York, New York. Said corporation did not maintain an office in West Redding, Connecticut.

5. As publisher of Glamour magazine, petitioner Ralph F. Timm was responsible for editorial content, circulation, advertising sales, merchandising services, promotional services, marketing, public relations and special events. He performed his services both within and without New York State. The Income Tax Bureau gave him credit for 40.5 of the 62 days he claimed as having been worked outside New York State. The remaining 21.5 disallowed days were days worked at home.

6. During 1972 petitioner Ralph F. Timm maintained an office in his West Redding, Connecticut, home. He contended that because of the complex nature of his position (which involved a great deal of outside sales-contact work as well as internal meetings), there was not enough time to achieve the objectives expected of him during the course of the normal working day. Therefore, he was forced to spend a great deal of his own time at home in the evening, on weekends and on "special days" in order to meet his responsibilities.

CONCLUSIONS OF LAW

A. That the days in which petitioner Ralph F. Timm worked at his home in Connecticut during the year 1972 were worked there by reason of his convenience and not for the necessity of his employer. Therefore, said days constituted days worked within New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

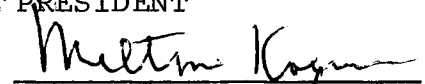
B. That the petition of Ralph F. and Ann S. Timm is denied and the Notice of Deficiency issued on January 26, 1976 in the sum of \$649.85 is sustained, together with such additional interest as may be lawfully owing.

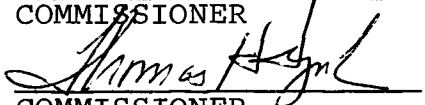
DATED: Albany, New York

April 24, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER