

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GUNTHER A. DOEHNER-MOREL and MARION Y. DOEHNER-MOREL

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)~~ 1970 :

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 6th day of April, 1979, she served the within

Notice of Decision by (certified) mail upon Gunther A. Doehner-Morel and

Marion Y. Doehner-Morel ~~(representative of)~~ the petitioner in the within proceeding,

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

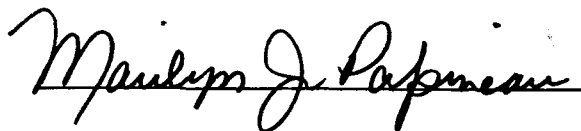
as follows: Gunther A. Doehner-Morel and Marion Y. Doehner-Morel  
8 Tyson Lane  
Rumson, New Jersey 07760

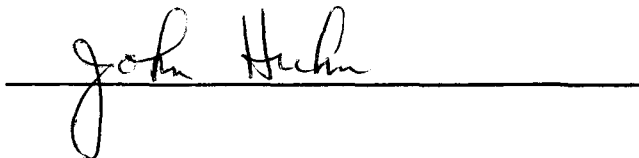
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

6th day of April, 1979.







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 6, 1979

Gunther A. Doehner-Morel and Marion Y. Doehner-Morel  
8 Tyson Lane  
Parsippany, New Jersey 07760

Dear Mr. and Mrs. Doehner-Morel:

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(s) 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 Chrysothos  
Hearing Examiner

cc: ~~Petitioners' Representative~~

Taxing Bureau's Representative



FINDINGS OF FACT

1. Petitioners, Gunther A. Doehner-Morel and Marion Y. Doehner-Morel, his wife, filed a New York State personal income tax nonresident return for 1970. The only income involved was that of petitioner Gunther A. Doehner-Morel. On said tax return, he allocated his income on the basis of days and hours worked within and without New York State.

2. The Income Tax Bureau contended that the period of time petitioner Gunther A. Doehner-Morel spent working at home in New Jersey was not time spent outside New York State for purposes of allocating income from wages. On February 25, 1974, it issued a Notice of Deficiency for 1970 in the amount of \$604.17 in personal income tax, plus \$103.70 in interest, for a total of \$707.87.

3. Petitioner, Gunther A. Doehner-Morel, was a physician whose specialty was the field of nuclear medicine. He performed services for three hospitals during 1970, all of which were located in New York.

4. Dr. Doehner-Morel occasionally performed consultation services for Saint Elizabeth's Hospital only, in New York.

5. Dr. Doehner-Morel performed services at the Polyclinic Hospital one day each week and spent 25 Saturdays and Sundays on emergency call at his home in New Jersey.

6. Dr. Doehner-Morel performed services at Saint Clare's Hospital four days each week and on emergency call for 40 Saturdays and Sundays at his home.

7. Dr. Doehner-Morel contended that he was employed by St. Clare's Hospital on a salary basis not only for the clinical services which he performed in the care of its patients, but also because of the needed prestige he would bring to said hospital through his scientific research and the achievements derived therefrom. Said petitioner contended further that he performed research and pursued

the development of a nuclear device for use in medicine at his home rather than at the hospital, in order to be free from interruptions and because his office at the hospital was small. At his home, he has an extensive research library. Said petitioner rented space near his home with an attached machine shop where he worked on the development of the nuclear device with the aid of a machinist whom he employed. The development of the nuclear device was financed in part by a grant from an interested manufacturer.

CONCLUSIONS OF LAW

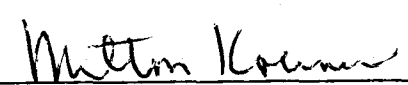
A. That the days worked in New Jersey during 1970 by petitioner Gunther A. Doehner-Morel in the service of his New York employers were worked there by reason of his own convenience and necessity and not for the necessity of his employers; therefore, the days which he worked in New Jersey are not to be 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 Gunther A. Doehner-Morel and Marion Y. Doehner-Morel is denied and the Notice of Deficiency issued February 25, 1974 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York  
April 6, 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER