

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN SHAFER and MARGARET SHAFER

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  
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 John Shafer and  
Margaret Shafer ~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: John Shafer and Margaret Shafer  
54 Sullivan Way  
East Brunswick, New Jersey 08816

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)~~  
~~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 .

Marilyn J. Lapineau

John Huhn



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

April 6, 1979

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

**John Shafer and Margaret Shafer**  
**54 Sullivan Way**  
**East Brunswick, New Jersey 08816**

**Dear Mr. and Mrs. Shafer:**

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 Chyrywaty**  
**Hearing Examiner**

cc: ~~Referee's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
JOHN SHAFER and MARGARET SHAFER : 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, John Shafer and Margaret Shafer, 54 Sullivan Way, East Brunswick, New Jersey 08816, 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. 12784).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 19, 1978 at 9:15 A.M. Petitioner Margaret Shafer appeared pro se and for her husband, petitioner John Shafer. The Income Tax Bureau appeared by Peter Crotty, Esq. (Bruce Zalaman, Esq., of counsel).

ISSUE

Whether petitioner John Shafer properly allocated his income based on days worked within and without New York State.

FINDINGS OF FACT

1. Petitioners, John Shafer and Margaret Shafer, timely filed a New York State income tax nonresident return for 1972, whereby salary income received from the American Broadcasting Co., Inc. in New York City was allocated, based on days worked within and without New York State.

2. On March 31, 1975, the Income Tax Bureau issued a Notice of Deficiency to petitioners, asserting personal income tax of \$252.30, plus interest of \$37.07, for a total of \$289.37. Said Notice disallowed forty-seven days worked outside New York State, resulting in an allocation of petitioner John Shafer's wages based on 114 days worked within New York State over a total of 166 days worked in the year.

3. Petitioner John Shafer was a television cameraman for the American Broadcasting Co., Inc. during 1972, and as such was required to render services without New York State.

4. Petitioner Margaret Shafer and the Income Tax Bureau stipulated that the schedule submitted by petitioner John Shafer was a proper basis in determining an allocation ratio based on days worked within and without New York State.

5. The schedule which was submitted conforms with the Statement of Audit Changes attached to the Notice of Deficiency issued March 31, 1975 and indicates the following:

Days worked in New York	114
Days worked out of New York	52
Total Working Days	<u>166</u>

CONCLUSIONS OF LAW

A. That the allocation of income based on days worked within and without New York was properly recomputed by the Income Tax Bureau, in accordance with section 632(c) of the Tax Law and 20 NYCRR 131.16.

B. That the petition of John Shafer and Margaret Shafer is denied and the Notice of Deficiency issued March 31, 1975 for \$289.37 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