

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Richard C. & Doris A. Fowkes :  
for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of :  
Personal Income Tax :  
under Article 22 of the Tax Law :  
for the Year 1972. :

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Jay Vredenburg, 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 28th day of March, 1980, he served the within notice of Decision by certified mail upon Richard C. & Doris A. Fowkes, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Richard C. & Doris A. Fowkes  
7100 McCormick Rd.  
Chicago, IL 60045

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
28th day of March, 1980.

Joanne Krapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Richard C. & Doris A. Fowkes :  
for Redetermination of a Deficiency or a Revision :  
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AFFIDAVIT OF MAILING

State of New York  
County of Albany

Jay Vredenburg, 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 28th day of March, 1980, he served the within notice of Decision by certified mail upon the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sirs  
Webster & McCarthy  
678 Lee St.  
Des Plaines, IL 60016

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  
28th day of March, 1980.

Joanne Krapp

J. Vredenburg

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

March 28, 1980

Richard C. & Doris A. Fowkes  
7100 McCormick Rd.  
Chicago, IL 60045

Dear Mr. & Mrs. Fowkes:

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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Webster & McCarthy  
678 Lee St.  
Des Plaines, IL 60016  
Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition  
of  
RICHARD C. FOWKES  
and  
DORIS A. FOWKES  
for Redetermination of a Deficiency or for  
Refund of Personal Income Tax under  
Article 22 of the Tax Law for the Year  
1972.

DECISION

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Petitioners, Richard C. Fowkes and Doris A. Fowkes, 7100 McCormick Road, Chicago, Illinois 60645, 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. 12082).

On August 14, 1978, petitioners informed the State Tax Commission, in writing, that they desired to waive a small claims hearing and to submit the case to the State Tax Commission, based on the entire record contained in the file. After due consideration of the record, the Commission renders the following decision.

ISSUE

Whether petitioner Richard C. Fowkes properly allocated his income to sources within and without New York State for 1972.

FINDINGS OF FACT

1. Petitioners, Richard C. Fowkes and Doris A. Fowkes, Connecticut residents, moved to Illinois during 1972. They filed

a New York State Income Tax Nonresident Return (Form IT-203) for said year. For purposes of income allocation, petitioner Richard C. Fowkes claimed that he worked 239 days during the year, of which 160 were days worked outside New York State.

2. On November 22, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, on the grounds that they failed to substantiate the 160 days which petitioner Richard C. Fowkes claimed as having been worked outside New York State. Accordingly, the Income Tax Bureau issued a Notice of Deficiency on March 31, 1975, imposing additional personal income tax of \$695.26, plus interest of \$102.14, for a total of \$797.40.

3. During 1972 petitioner Richard C. Fowkes was employed by the Bell and Howell Corporation. On July 10, 1972, petitioner was transferred to the Chicago office. Prior to the transfer, petitioner earned \$17,469.15 from the New York office. For purposes of income allocation, petitioner Richard C. Fowkes was assigned to the New York office for a total of 191 days, of which 59 were non-working days and 63 were days worked outside New York State.

#### CONCLUSIONS OF LAW

A. That petitioners, Richard C. Fowkes and Doris A. Fowkes, were entitled to an allocation of income to sources within and without New York State for the time employed from the New York office, in accordance with section 632(c) of the Tax Law and 20 NYCRR 131.16.

B. That petitioner Richard C. Fowkes worked 132 days for Bell and Howell Corp. while assigned to the New York office, of

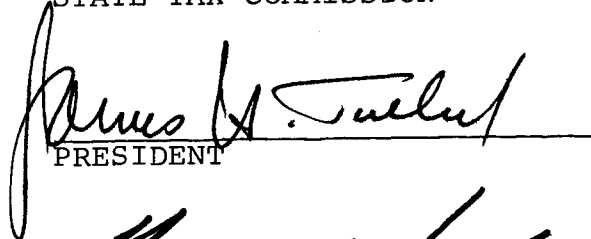
which 63 days were worked outside New York State. The Income Tax Bureau is hereby directed to recompute the Notice of Deficiency issued March 31, 1975, allowing an allocation of income in accordance with Finding of Fact "3".

C. That the petition of Richard C. Fowkes and Doris A. Fowkes is granted to the extent indicated in Conclusion of Law "B", and that, except as so granted, is in all other respects denied.

DATED: Albany, New York

MAR 28 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER