

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Willard F. & Letitia E. Schroeder :
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 1971. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jean Schultz, 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 29th day of February, 1980, she served the within notice of Decision by certified mail upon Willard F. & Letitia E. Schroeder, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Willard F. & Letitia E. Schroeder
319 Valley Rd.
Haworth, NJ 07641

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
29th day of February, 1980.

Joanne Knapp

Jean Schultz

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

February 29, 1980

Willard F. & Letitia E. Schroeder
319 Valley Rd.
Haworth, NJ 07641

Dear Mr. & Mrs. Schroeder:

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

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
WILLARD F. SCHROEDER and LETITIA E. SCHROEDER	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1971.	:	

Petitioners, Willard F. Schroeder and Letitia E. Schroeder, 319 Valley Road, Haworth, New Jersey 07641, 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 1971 (File No. 13866).

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 February 6, 1979 at 9:15 A.M. Petitioner appeared pro se and for his wife, petitioner Letitia E. Schroeder. The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether days worked at home in New Jersey constituted days worked without the State of New York for income allocation purposes.

FINDINGS OF FACT

1. Petitioners, Willard F. Schroeder and Letitia E. Schroeder, timely filed a joint New York State Income Tax Nonresident Return for 1971, on which salary income of \$40,512.83 was allocated based on days worked within and without New York State. Petitioner Willard F. Schroeder indicated on his allocation schedule that of a total of 215 working days, 97 days were worked without New York State, and 118 days were worked within New York State.

2. On June 24, 1974, the Income Tax Bureau issued a Notice of Deficiency

on which the number of days worked without the State of New York was reduced by 90 days, and the number of days worked within New York State was increased by 90 days.

3. Petitioner Willard F. Schroeder was employed by Aurora Products Corp. until June 30, 1971. Subsequent to said date, he was given termination pay for a period of three months on the condition that he be available for any help, advice or information.

4. Petitioner Willard F. Schroeder occasionally rendered advice and information by telephone from his home in New Jersey and from his farm in Pennsylvania during the 90 days subsequent to June 30, 1971. No written reports were required or submitted by him.

CONCLUSIONS OF LAW

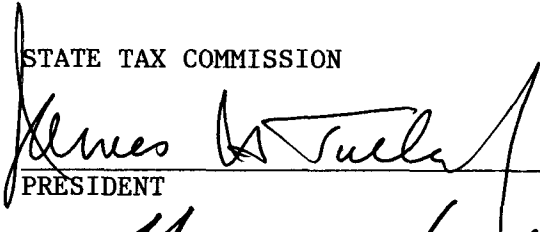
A. That the 90 days on which petitioner Willard F. Schroeder worked at his home in New Jersey and on his farm in Pennsylvania during 1971 were days worked there for his own convenience, and not for the convenience and necessity of his New York employer. Therefore, the aforesaid 90 days constituted days worked within New York State for income allocation purposes in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

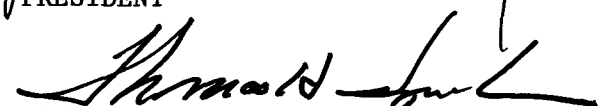
B. That the petition of Willard F. Schroeder and Letitia E. Schroeder is denied and the Notice of Deficiency issued June 24, 1974 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

FEB 29 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER