

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
LeRoy A. & Helga A. Petersen :
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 :
1962. :
_____ :

AFFIDAVIT OF MAILING

State of New York
County of Albany

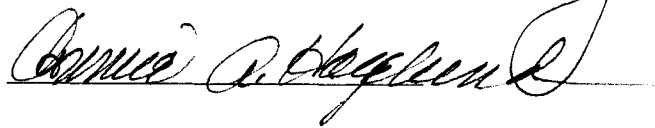
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of June, 1982, he served the within notice of Decision by certified mail upon LeRoy A. & Helga A. Petersen, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

LeRoy A. & Helga A. Petersen
78 West Brother Dr.
Greenwich, CT

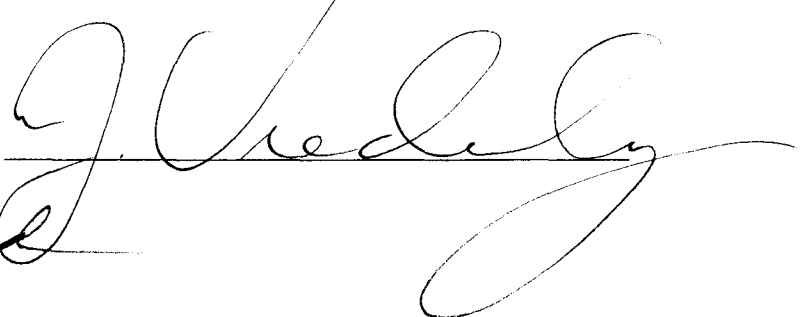
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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
11th day of June, 1982.



Commissioner of Taxation and Finance



Jay Vredenburg

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
LeRoy A. & Helga A. Petersen :

AFFIDAVIT OF MAILING

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 :
1962 :

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 11th day of June, 1982, he served the within notice of Decision by certified mail upon John Westbrook Fager the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

John Westbrook Fager
c/o Hughes, Hubbard, Blair & Reed
One Wall St.
New York, NY 10005

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
11th day of June, 1982.

Annie A. Hegmann

J. Vredenburg

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

June 11, 1982

LeRoy A. & Helga A. Petersen
78 West Brother Dr.
Greenwich, CT

Dear Mr. & Mrs. Petersen:

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
Law Bureau - Litigation Unit
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
John Westbrook Fager
c/o Hughes, Hubbard, Blair & Reed
One Wall St.
New York, NY 10005
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LEROY A. and HELGA A. PETERSEN	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal income Tax under Article 22	:	
of the Tax Law for the year 1962.	:	

Petitioners Leroy A. and Helga A. Petersen, West Brother Dr., Greenwich Connecticut, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the Year 1962 (File No. 34199).

A formal hearing was held before Alfred Rubenstein, Hearing Officer, at the offices of the State Tax Commission, State Campus, Albany, New York. On August 1, 1967 at 9:30 A.M. Mr. LeRoy A. Petersen appeared with Hughes, Hubbard, Blair & Reed, Esqs., (John W. Fager, Esq. and William Lee Johnson Esq. of counsel).

ISSUE

Whether petitioners, as nonresidents, properly reported income from New York sources.

FINDINGS OF FACT

1. The petitioners timely filed a New York State Nonresident Income Tax Return for the year 1962. The nonresidency of the petitioners is not in issue.
2. On October 11, 1965, the Income Tax Bureau issued a notice of deficiency for the year 1962 to the petitioners under file numbered 2-6765242 in the amount of \$13,059.95 plus statutory interest. The deficiency was based upon a

finding by the Income Tax Bureau that amounts received by the petitioners from the Otis Elevator Company were subject to New York State income tax also upon a disallowance of the allocation claimed of business income without the State of New York.

3. The petition was timely filed.

4. During the years 1949 through 1961 Mr. LeRoy A. Petersen was employed by the Otis Elevator Company. At the time of his retirement Mr. Petersen was president, chief executive officer, and a director. After retirement, he continued as a director and member of the Executive Committee and was elected chairman of the Board of Directors. The principal executive offices of the company are in New York City.

During the years 1949 through 1961 Mr. Petersen spent an average of 74.628 percent of his working days within New York State.

5. During the year 1962 Mr. Petersen received benefits in the amount of \$185,877.45 from the Incentive Compensation Plan of the Otis Elevator Company (as revised to January 1, 1962).

The benefits received do not constitute an annuity but are payment for work done in prior years and are taxable to the extent the work was done in those prior years in New York.

6. During the year 1962 Mr. Petersen was employed as a director in ten corporations and received remuneration in the form of retainer fees and fees for attendance when required. Such retainer fees and attendance fees were payable to Mr. Petersen on his election as a director whether or not he performed any consultation services. Petitioner's remuneration, accordingly, was payable solely by virtue of his election as a director in such corporations, for

services at directors' meetings in New York. Petitioner was never called upon for consultation services other than during attendance at committee meetings or directors' meetings other than occasional telephone calls received at his home from two such corporations, and no supporting data has been submitted in proof of any right to allocation of fees for such occasional telephone consultations.

The petitioner has failed to prove that any of his services were required by any of the appointing corporations to be performed outside the State of New York or that any such services performed by the petitioner outside the State of New York were for other than his own convenience.

7. The Notice of Deficiency was computed in part, by allowing petitioners credit for estimated tax in the amount of \$1,240.97, as claimed on the 1962 return. Income Tax Bureau records indicate that petitioners are entitled to an additional estimated tax credit of \$454.03 which was petitioners 1961 overpayment that was applied to their 1962 estimated tax account but not claimed by petitioners on their return.

CONCLUSIONS OF LAW

A. The amount of \$185,877.45 received during the year 1962 under the Incentive Compensation Plan for the Otis Elevator Company is subject to the New York State Income Tax to the extent of the allocation percentage of 74.628 percent attributable to New York State.

B. Income in the form of director's remuneration for the year 1962 constitutes payment for services attributable entirely within the State of New York in the amount of \$50,856.00 and is subject to New York State income tax.

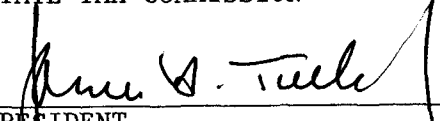
C. That the Notice of Deficiency dated October 11, 1965, issued against the petitioners is to be recomputed in accordance with Finding of Fact "7" and

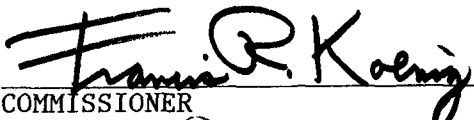
the deficiency as modified is sustained together with such interest as may be lawfully due.

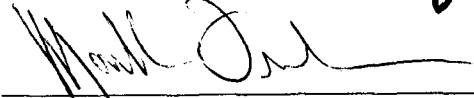
DATED: Albany, New York

JUN 11 1984

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

TA 26 (9-79)
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

(Handwritten signature/initials)

Leroy A. X. Helga
78 West Mother Dr.
Canaan, CT

RECEIVED
JUL 14 1982
TAX APPEALS BUREAU

(Handwritten notes)
FWD
C. J. Smith
New Can

CLAIM CHECK
NO.

☐ HOLD

DATE

6/16

1ST NOTICE

6/22

2ND NOTICE

7/4

RETURN

Detached from
PS Form 3805-A
May 1979

5840

PF
STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
LeRoy A. & Helga A. Petersen :
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 :
1962. :

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 20th day of August, 1982, he served the within notice of Decision by certified mail upon LeRoy A. & Helga A. Petersen, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

LeRoy A. & Helga A. Petersen
c/o John Westbrook Fager
c/o Hughes, Hubbard, Blair & Reed
One Wall Street
New York, NY 10005

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
20th day of August, 1982.

Annice A. Hayell

J. Vredenburg