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STATE OF NEW YORK

STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION

OF

THURMAN F. BREEN &  
DOROTHY BREEN, his wife

FOR REVISION OR REFUND OF PERSONAL  
INCOME TAXES UNDER ARTICLE 16 OF THE  
TAX LAW FOR THE YEAR 1960.  
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The taxpayers herein having filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1960 and a hearing having been held in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York City, N. Y. on the 26th day of May, 1964 before Solomon Sies, hearing officer of the Department of Taxation and Finance, at which hearing the taxpayer, Thurman F. Breen, appeared personally and testified and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That during the year 1960 the taxpayer, Thurman F. Breen, a resident of the State of New Jersey, was employed as operating vice-president for Household Finance Corporation, a corporation organized under the laws of Delaware, at its branch office in New York City; that his responsibilities involved the direction, during the year 1960, of ninety (90) offices located in New York, New Jersey and Connecticut; that his duties required him to go into the field and visit these offices, supervise them in order to administer company policies and procedures, to appraise employees, to decide whether the employees should be promoted, discharged or retained and to make recommendations for re-location of units, attend banking conferences, training meetings, etc.;

that an office was provided by the employer at 555 Fifth Avenue, New York City, N. Y. for the use of the taxpayer; that the taxpayer did not have any set hours for time spent in the field nor did he have any scheduled work hours.

(2) That the taxpayer on his 1960 New York State Non-Resident Income Tax Return claimed an allocation of 90.188 days for work performed at home; that the work performed at home consisted of reading, analyzing and dictating reports on a dictating machine on individual branch offices, as well as statistical and analytical reports; that he maintained a diary; that some of the hours and days claimed for work to have been done at home were on weekends; that under his written contract of employment with the employer, there was no provision requiring the taxpayer to perform work at home.

(3) That no part of the taxpayer's work was required by his employer to be performed at home; that such work could have been performed at the New York office of the employer, but was performed by the taxpayer at his home because of greater convenience.

(4) That the taxpayer, as a non-resident, was entitled to apportion the salary or personal service compensation received from Household Finance Corporation and was, pursuant to Article 452 of the Personal Income Tax Regulations, required to include in gross income that portion of the total compensation for the services performed which the total number of working days within New York State bears to the total working days employed both within and without New York State; that the number of working days employed within New York State in 1960 was 198 and that the total number of working days employed both within and without New York State in 1960 was 282; that by reason of the foregoing the New York adjusted gross income of the taxpayer from sources

within the State of New York for the year 1960 amounted to \$19,175.19.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby  
**DETERMINES:**

That the income derived from work performed by the taxpayer in his home was attributable to services rendered within the State of New York; that the assessment of additional taxes (Assessment No. B-990125 in the sum of \$408.97 for the year 1960) is correct; that said assessment does not include any tax or other charge which could not have been lawfully demanded and that the application for revision or refund with respect to the aforementioned assessment be and the same is hereby denied.

DATED: Albany, New York on the 12th day of March , 1965.

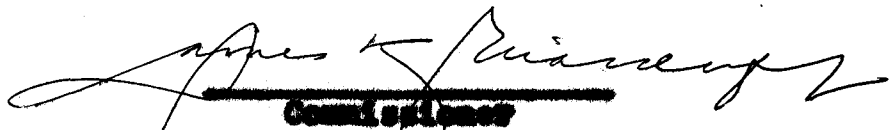
**STATE TAX COMMISSION**

/s/

JOSEPH H. MURPHY

**President**

  
**Commissioner**

  
**Commissioner**