

STATE OF NEW YORK
STATE TAX COMMISSION

*Regnier-Wilmer D.
Pers. Inc.
(92)*

In the Matter of the Petition

of

WILMER D. REGNIER

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1961

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Linda Wilson, 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 21st day of January, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon WILMER D.

REGNIER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Wilmer D. Regnier
30 Marc Drive
Matawan, New Jersey

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

21st day of January, 1971

Linda Wilson
Bartholomew

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILMER D. REGNIER	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1961	:	

Wilmer D. Regnier has petitioned for a redetermination of a deficiency or for refund of personal income taxes imposed by Article 22 of the Tax Law for the year 1961 issued under notice of deficiency dated April 13, 1965, in the amount of \$86.23 plus interest under file number 1-3811042. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on June 10, 1969. The petitioner appeared on his own behalf, and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq. of counsel).

FINDINGS OF FACT

1. The issue in this case is whether days worked at and in the vicinity of the taxpayer's home are to be considered out-of-state working days for income tax purposes.

2. Petitioner is employed by Glass Container Manufacturing Institute, a New York corporation, with offices in New York. He was paid a salary for work he performed.

3. The petitioner worked in Maryland out of an office which he maintained in his own home.

4. Petitioner's income for the year 1961 was \$14,750.00 of which he reported \$3,672.60 as having been earned within New York. On his New York State income tax return, the petitioner claimed 62 working days in New York and 249 working days for the year.

5. Of the working days claimed to be spent outside the state, petitioner claimed thirty-nine (39) days spent working in the office at his home in Maryland as working days outside New York. He further claimed twenty-eight (28) days spent making specific calls on company clients in Maryland as working days outside New York.

6. An audit by the New York Income Tax Bureau determined the above sixty-seven (67) days not to be working days outside the State of New York and recomputed the petitioner's tax based upon a total of 129 working days in New York (62 days claimed by taxpayer plus the additional 67 days).

7. The corporation maintained no office in Maryland.

DECISION

A. The twenty-eight (28) days the petitioner spent making calls on clients in Maryland are working days outside New York.

B. Work performed during the thirty-nine (39) working days spent in the petitioner's office located in his home were performed for the greater convenience of the petitioner and are, therefore, allocated as working days inside New York for purposes of the apportionment of income.

C. The notice of additional assessment is erroneous and is recomputed (to include only the 39 days spent in petitioner's home) as follows:

Days worked in NYS $\frac{101}{249} \times \$14,750.00$ (from assessment)=
Total days worked in year

New York salary income	\$5982.93
$\frac{\$5982.93}{\$21547.16} \times \$2427.60$ [deductions (from tax return)]=	<u>674.06</u>
\$21547.16 (total income)	\$5308.87

Balance	\$5308.87
Exemptions (from tax return)	<u>3000.00</u>
New York taxable income	\$2308.87

Tax on Income	\$59.27
Less: Statutory credit	<u>25.00</u>
Personal Income Tax Due	\$34.27
Personal Income Tax previously stated	-0-

ADDITIONAL PERSONAL INCOME TAX DUE \$34.27

D. The notice of deficiency is hereby reduced to reflect additional personal income tax due of \$34.27 plus such interest as may lawfully be determined.

DATED: Albany, New York

January 20, 1971

STATE TAX COMMISSION

Irvingman Gallman
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Kremer
COMMISSIONER