

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT J. & GWENNETH R. SAILER

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) 1966 & 1967 :

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

State of New York
County of Albany

Martha Funaro , 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 31st day of May , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon Robert J. &
Gwenneth R. Sailer (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Robert J. & Gwenneth R. Sailer
34 Pershing Avenue
Ridgewood, New Jersey 07450
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

31st day of May , 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 31, 1972

Robert J. & Gwenneth R. Sailer
34 Pershing Avenue
Ridgewood, New Jersey 07450

Dear Sir & Madam:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 Months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

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of	:	
ROBERT J. SAILER	:	
and	:	DECISION
GWENNETH R. SAILER	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1966 and 1967.	:	

Petitioners, Robert J. Sailer and Gwenneth R. Sailer, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1966 and 1967. (File No. 89229761). A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, for April 26, 1972, at 1:15 P.M. Prior to the formal hearing, petitioners advised the State Tax Commission, in writing, that they waived a formal hearing and requested that the State Tax Commission decide the case upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Was all of the salary income received by petitioner, Robert J. Sailer, from Esso International, Inc. during the years 1966 and 1967 allocable to New York State?

FINDINGS OF FACT

1. Petitioners, Robert J. Sailer and Gwenneth R. Sailer, filed New York State income tax nonresident returns for the years 1966 and 1967. They claimed on said returns that petitioner, Robert J. Sailer, worked Saturdays, Sundays and holidays totaling 58 days during the

year 1966 and 41 days during the year 1967 and accordingly allocated his salary income for said years based upon said allegation.

2. On December 29, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Robert J. Sailer and Gwenneth R. Sailer, imposing additional personal income tax due for the years 1966 and 1967 in the sum of \$547.17 upon the grounds that the time he worked at home on Saturdays, Sundays and holidays did not constitute a proper basis for allocation of his salary income. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$620.72.

3. Petitioners, Robert J. Sailer and Gwenneth R. Sailer, were residents of the State of New Jersey during the years 1966 and 1967.

4. Petitioner, Robert J. Sailer, was employed as section chief of the Dispatch Section, Supply and Transportation Department of Esso International, Inc. during the years 1966 and 1967. The office of his employer was located at 60 West 49th Street in New York City. He received a salary of \$19,920.00 during the year 1966 and \$21,570.00 during the year 1967 from said corporation.

5. Petitioner, Robert J. Sailer, has failed to submit any documentary or other sufficient evidence to prove the number of Saturdays, Sundays and holidays he worked at home for Esso International, Inc. during the years 1966 and 1967.

CONCLUSIONS OF LAW

A. That petitioner, Robert J. Sailer, failed to substantiate the number of Saturdays, Sundays and holidays he allegedly worked outside of New York State during the years 1966 and 1967 since he failed to submit documentary or other sufficient evidence to support his claim as to the number of said days.

B. That in view of the aforesaid conclusion of law, it is not necessary for the State Tax Commission to decide at this time whether the Saturdays, Sundays and holidays alleged to have been worked at

home during the years 1966 and 1967 by petitioner, Robert J. Sailer, were for his convenience or for the necessity of his employer.

C. That the petition of Robert J. Sailer and Gwenneth R. Sailer is denied and the Notice of Deficiency issued December 29, 1969, is sustained.

DATED: Albany, New York

May 31, 1972

STATE TAX COMMISSION

COMMISSIONER

Bruce Hanley

COMMISSIONER

William Kuersten

COMMISSIONER

extra copy

STATE OF NEW YORK
STATE TAX COMMISSION

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C. That the petition of Robert J. Sailer and Gwenneth R. Sailer is denied and the Notice of Deficiency issued December 29, 1969, is sustained.

DATED: Albany, New York
May 31, 1972

STATE TAX COMMISSION

COMMISSIONER

Bruce Manley

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William Kuehn

COMMISSIONER