

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN L. TITTLE, JR. &
MARION J. TITTLE

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) 1969.

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

State of New York
County of Albany

JOYCE S. VAN PATTEN, 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 26th day of July, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon JOHN L., JR. & MARION J. TITTLE (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

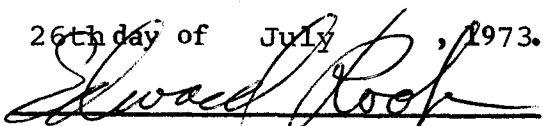
John L., Jr. & Marion J. Tittle
13240 LeBlanc Road
Plymouth, Michigan 48170

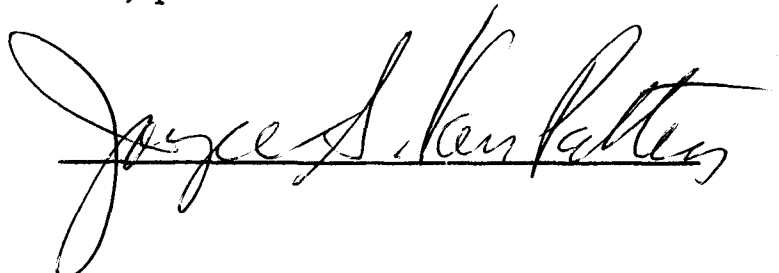
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

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

26th day of July, 1973.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

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
July 26, 1973

John L., Jr. & Marion J. Tittle
13240 LeBlanc Road
Plymouth, Michigan 48170

Dear Mr. and Mrs. Tittle:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JOHN L. TITTLE, JR. & MARION J. TITTLE	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1969.	:	

Petitioners, John L. Tittle, Jr. and Marion J. Tittle, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1969.

The case was submitted for decision on information contained in the file.

ISSUE

Must taxpayer, John L. Tittle, Jr., allocate income earned for days worked at his New Jersey home as New York resident income?

FINDINGS OF FACT

1. Petitioners, John L. Tittle, Jr. and Marion J. Tittle, timely filed a New York State income tax return for the year 1969.
2. A Notice of Determination of deficiencies in personal income taxes for the year 1969, was issued on March 20, 1972, against the taxpayers under File No. 9-33137031.
3. The taxpayers petitioned for redetermination of the deficiencies.
4. Taxpayer, John L. Tittle, Jr., a consultant for a New York firm, met with clients at taxpayers' New Jersey home for the days in question and not at the client's New Jersey office. Taxpayer did not maintain a regular office at his home and his firm did not have a New Jersey office.

5. Taxpayer, John L. Tittle, Jr., contended working at home was done to save the client travel expenses and not for the convenience or advantage of either employee (taxpayer) or employer.

6. The Income Tax Bureau contended that work time spent at home for the convenience of the employer or the employee is not recognized as out-of-state time for purposes of allocation of salary income.

CONCLUSIONS OF LAW

A. For the purposes of allocating income earned, days worked at the taxpayers' home outside the state for reasons of personal convenience and not for the necessity of the employer, must be held to be days worked within the state. Matter of Churchill v. Gallman, 38 AD 2d 631 (1971). Pursuant to 20 NYCRR 131.16, taxpayer, John L. Tittle, Jr., is held to have worked for his own convenience at his home in New Jersey though he may collaterally have worked there for the convenience of his client.

B. The petition is denied and the determination of the deficiency in income tax is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York
July 25, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER