

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RAYMOND B. COHEN & JUDITH C. COHEN

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

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) 1972

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 24th day of September , 19 74, she served the within Notice of Decision (or Determination) by (certified) mail upon Raymond B. & Judith C. Cohen (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Raymond B. Cohen
56 E. Edsall Boulevard
Palisades Park, New Jersey 07650

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

24th day of September , 1974

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

Dated: Albany, New York

September 24, 1974

Mr. & Mrs. Raymond B. Cohen
56 E. Edsall Boulevard
Palisades Park, New Jersey 07650

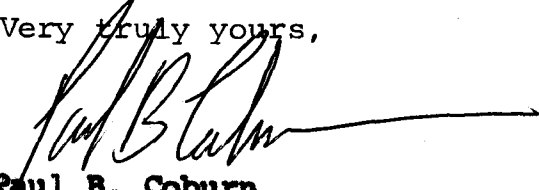
Dear Mr. & Mrs. Cohen:

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

AD-1.12 (8/73)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
RAYMOND B. COHEN and JUDITH C. COHEN : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1972. :

Petitioners, Raymond B. Cohen and Judith C. Cohen, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972. (File No. 2-29003510).

A calendar call was scheduled at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, for July 9, 1974, at 11:00 A.M. On July 5, 1974, petitioners, Raymond B. Cohen and Judith C. Cohen, executed a written waiver of 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

Were days worked at home in New Jersey during the year 1972 by petitioner, Raymond B. Cohen, allocable as days worked without New York State?

FINDINGS OF FACT

1. Petitioners, Raymond B. Cohen and Judith C. Cohen, filed a New York State combined income tax return for the year 1972. They allocated the income received by petitioner, Raymond B. Cohen, based upon the number of days he alleged to have worked within and

without New York State during said year. They claimed a refund in the amount of \$416.42 for said year.

2. On August 23, 1973, the Income Tax Bureau issued a Statement of Refund Adjustment to petitioners, Raymond B. Cohen and Judith C. Cohen, for the year 1972, reducing the amount of their refund to \$278.36 upon the grounds that the days worked at home in New Jersey were for taxpayers' own convenience.

3. Petitioner, Raymond B. Cohen, was employed as an accountant by two New York firms, Tabb & Co. and Lane Bryant, Inc., during the year 1972. He worked 16 weekend days during said year in order to complete certain monthly reports in conjunction with his employment with Lane Bryant, Inc. This work was performed in his home in New Jersey since he was precluded from gaining entrance to the New York office because of the security system.


CONCLUSIONS OF LAW

A. That the days worked at home in New Jersey during the year 1972 by petitioner, Raymond B. Cohen, were worked there by reason of his necessity and convenience and not for the necessity of his employer and, therefore, said days may not be held to be days worked without New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

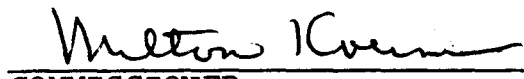
B. That the petition of Raymond B. Cohen and Judith C. Cohen is denied and the Statement of Refund Adjustment issued August 23, 1973, is sustained.

DATED: Albany, New York
September 24, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER