

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE W. & THEODORA C. McGUIRE

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))~~ f/y/e 11/30/64 -  
11/30/65.

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

State of New York  
County of Albany

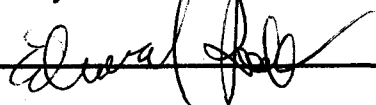
Martha Funaro , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 6th day of March , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon George W. &  
Theodora C. McGuire (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. George W. McGuire  
Box 207-Pass-a-Grille  
St. Petersburg Beach, Florida

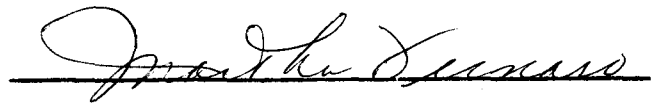
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

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

6th day of March , 1974.





STATE OF NEW YORK  
STATE TAX COMMISSION

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County of Albany

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Notice of Decision (or Determination) by (certified) mail upon John A. Burns, C.P.A.

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proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: John A. Burns, C.P.A.

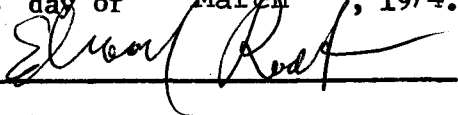
39-01 Main Street  
Flushing, New York 11354

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6th day of March, 1974.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino,

~~NORMAN F. CALYHAN~~, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

March 6, 1974

Mr. & Mrs. George W. McGuire  
Box 207-Pass-a-Grille  
St. Petersburg Beach, Florida

Dear Mr. & Mrs. McGuire:

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,

**Nigel G. Wright**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
GEORGE W. and THEODORA C. McGUIRE	:	DECISION
	:	
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
year ending 11/30/64 - 11/30/65.	:	
	:	
	:	

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George W. and Theodora C. McGuire, filed a petition for redetermination of a deficiency issued under date of January 22, 1968, and revised on January 15, 1969, for personal income taxes under Article 22 of the Tax Law in the amount of \$5,613.19 plus interest of \$1,106.87 for a total of \$6,720.06 for the year ending 11/30/64 - 11/30/65. A hearing was duly held before Nigel G. Wright, Hearing Officer, on November 2, 1972, at the offices of the State Tax Commission, 80 Centre Street, New York City.

The petitioners were represented by John A. Burns & Co., C.P.A.'s of Queens County, appearing by William Cavanagh, C.P.A. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Albert Rossi, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether work performed by an employee at his home in Florida for a New York employer is to be considered New York income.

FINDINGS OF FACT

1. Petitioners were residents of St. Petersburg Beach, Florida.
2. Mr. McGuire received wages in the fiscal year 1964 of \$40,000.00 and in the fiscal year 1965 of \$25,000.00 from the George W. McGuire Co., Inc. of 150-31 12th Avenue, Whitestone, Queens, New York, a manufacturer of bamboo rakes. Federal taxes, social security, and New York taxes were withheld from these wages. These wages were received by Mr. McGuire as president and director of the corporation.
3. Petitioners filed New York nonresident returns showing only certain amounts received as rents or royalties as New York income. The wages were not reported.
4. The Whitestone, New York location of the company was primarily a manufacturing plant under the supervision of a manager. Petitioner claims that his duties related largely to importing and exporting as well as general executive duties and these tasks could be and were accomplished outside of New York State.
5. The corporation did not claim that it had an office in Florida and was not qualified to do business there. The address at which petitioner did his work is his own home address.


CONCLUSIONS OF LAW

Petitioner is a nonresident employee. Regulations section 20 NYCRR 131.16 is applicable and the salary income is attributable to New York.

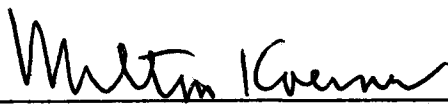
The deficiency is correct and is due together with such additional interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
March 6, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER