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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDMUND A. NESPOLI and JUDITH A. NESPOLI

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) 1970.

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

State of New York
County of Albany

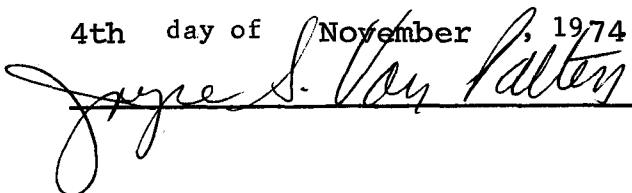
JANET MACK, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of November, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon EDMUND A. NESPOLI and
JUDITH A. NESPOLI (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. and Mrs. Edmund A. Nespoli
32 Ridgedale Road
Bethel, Connecticut 06801

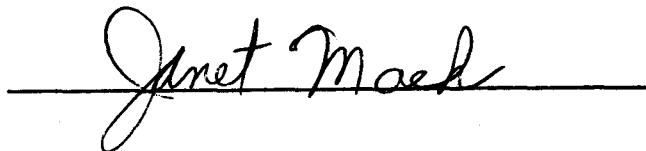
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

4th day of November, 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
EDMUND A. NESPOLI and JUDITH A. NESPOLI

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) 1970.

State of New York
County of Albany

JANET MACK, 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 4th day of November, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon SAMUEL SHOWAH, JR.,
C.P.A.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

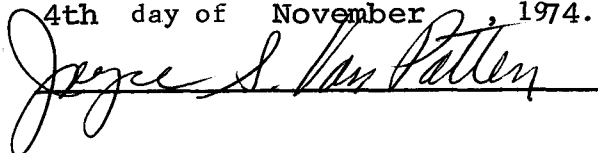
Samuel Showah, Jr., C.P.A.
44 North Street
P.O. Box 268
Danbury, Connecticut 06810

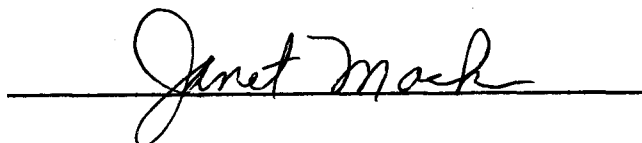
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Sworn to before me this

4th day of November, 1974.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

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

DATED: Albany, New York
November 4, 1974

Mr. and Mrs. Edmund A. Nespoli
32 Ridgedale Road
Bethel, Connecticut 06801

Dear Mr. and Mrs. Nespoli:

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 :
EDMUND A. NESPOLI and JUDITH A. NESPOLI : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1970. :

Petitioners, Edmund A. Nespoli and Judith A. Nespoli, 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 1970. (File No. 0-53176763). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on July 18, 1974, at 2:45 P.M. Petitioners appeared by Samuel Showah, Jr., C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Were days worked at home in Connecticut during the year 1970 by petitioner, Edmund A. Nespoli, for Harcourt, Brace & World, Inc. allocable as days worked without New York State?

FINDINGS OF FACT

1. Petitioners, Edmund A. Nespoli and Judith A. Nespoli, filed a New York State income tax nonresident return for the year 1970. They allocated the income received by petitioner, Edmund A. Nespoli, based upon the number of alleged days he worked for his employer, Harcourt, Brace & World, Inc., within and without New York State during said year. They demanded a refund in the sum of \$282.00.

2. On June 26, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Edmund A. Nespoli and Judith A. Nespoli, imposing additional personal income tax for the year 1970, in the sum of \$575.77 upon the grounds that the days worked at home by petitioner, Edmund A. Nespoli, for his employer, Harcourt, Brace & World, Inc. were not allocable as days worked outside of New York State. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$617.11.

3. Petitioners, Edmund A. Nespoli and Judith A. Nespoli, were residents of the State of Connecticut during the year 1970. They resided at 30 Maple Tree Avenue, Stamford, Connecticut.

4. Petitioner, Edmund A. Nespoli, was employed by Harcourt, Brace & World, Inc., during the period from January through June 1970, as a field editorial consultant in mathematics. His duties consisted of acting as a liason between school districts and the company, rendering assistance to the company editorial staff, writing educational materials and attending sales meetings. His employer maintained corporate offices in New York City, which were available for his use. His work at home consisted of preparing promotional materials and lectures for his employer.

CONCLUSIONS OF LAW

✓ A. That the days worked by petitioner, Edmund A. Nespoli, at his home in Connecticut during the year 1970 for his employer, Harcourt, Brace & World, Inc., were worked there by reason of his necessity and convenience and not for the necessity of his employer, and therefore, for purposes of allocation of salary income, said days cannot be treated as days worked outside of 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 Edmund A. Nespoli and Judith A. Nespoli is denied and the Notice of Deficiency issued June 26, 1972, is sustained.

DATED: Albany, New York
November 4, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER