

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

GERALD and JUDITH LASMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (s) 22 of the :  
Tax Law for the Year (s) or Period(s) 1972.:  
~~(s) or Period(s)~~

State of New York  
County of

Catherine Steele, 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 October, 1976, she served the within  
Notice of Decision by (certified) mail upon Gerald & Judith Lasman

~~(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. Gerald Lasman  
15 Connor Avenue  
Metuchen, New Jersey 08840

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~  
~~of the~~ 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 October, 1976

Janet Mack

Catherine Steele



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

October 4, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Gerald Lasman  
15 Connor Avenue  
Metuchen, New Jersey 08840

Dear Mr. & Mrs. Lasman:

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

Please take further notice that pursuant to  
Section(x) **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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~Decisioner's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
GERALD and JUDITH LASMAN	:	DECISION
	:	
for Redetermination of Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1972.	:	

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Petitioners, Gerald and Judith Lasman, residing at 15 Connor Avenue, Metuchen, New Jersey 08840, 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. 2-23216099). A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Department of Taxation and Finance, Two World Trade Center, New York, New York, on June 7, 1976, at 9:15 A.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Were the 63 days worked at home in New Jersey by petitioner, Gerald Lasman, during the year 1972, allocable as days worked outside New York State?

FINDINGS OF FACT

1. Petitioners, Gerald Lasman and Judith Lasman, filed a joint New York State income tax nonresident return for 1972. They allocated the income received by the petitioner, Gerald Lasman, based upon the number of days he alleged to have worked within and without New York State during 1972. Included in the total days worked outside New York State were 63 days worked at petitioner's New Jersey home.

2. On August 25, 1975, the Income Tax Bureau issued a Notice of Deficiency against the petitioner, Gerald Lasman, in the amount of \$297.40 plus interest of \$52.68 for a total amount due of \$350.08. The additional amount of tax due resulted from the Income Tax Bureau's disallowance of the 63 days worked at the petitioner's New Jersey home.

3. Petitioner, Gerald Lasman, a New Jersey resident, was employed as a shoe salesman for Caressa, Inc. during 1972. Caressa, Inc. maintains their home office in Miami, Florida. His responsibility as an outside salesman included the solicitation of business in the Northeastern United States. He also had the availability of a New York City showroom which he used on a regular basis, one day a week, for the purpose of showing customers his company's product. There were no desk or other facilities provided for him at the New York City location; however, there was a secretary's office.

4. Petitioner, Gerald Lasman, maintained an office in his New Jersey home during the year 1972. The office was equipped with a filing cabinet, desk and telephone. He used this office for the purpose of making appointments, contacting customers, maintaining records and writing orders. He assumed all the expenses for this office.

CONCLUSIONS OF LAW

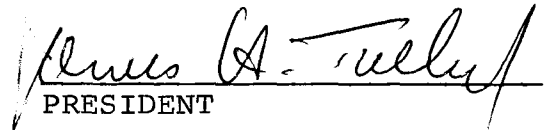
A. Petitioner, Gerald Lasman, failed to submit sufficient documentary or other evidence which would show that his commission income was subject to the provisions of section 131.15 of the Personal Income Tax Regulations (20 NYCRR 131.15).

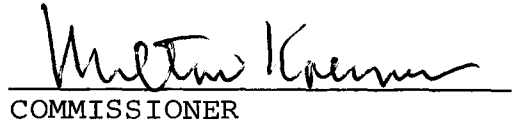
B. That petitioner, Gerald Lasman, was not required by necessity to perform services for his employer outside of New York State on the days he worked at his home in New Jersey, but rather such services were performed there for his greater convenience and that the income derived therefrom constitutes income attributable to New York sources in accordance with the meaning and intent of section 632(c) of the Tax Law. That the nature of his work was such that his employer could have furnished facilities for his use in New York State similar to his facilities in New Jersey.

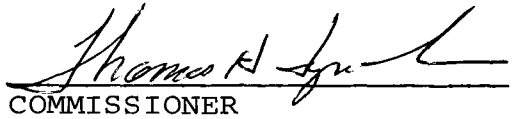
C. That the petition of Gerald and Judith Lasman is denied and the Notice of Deficiency issued August 25, 1975, is sustained.

DATED: Albany, New York  
October 4, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER