

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

LAWRENCE J. MC GONIGLE AND  
LORETTA M. MC GONIGLE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(a)~~ 22 of the  
Tax Law for the Year(s) ~~or Period(s)~~ 1969  
and 1970.

State of New York  
County of Albany

Carmen Mottolese, 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 13th day of September, 1976, she served the within

Notice of Decision by (certified) mail upon Lawrence J. McGonigle  
and Loretta M. McGonigle  
~~XX~~

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. & Mrs. Lawrence J. McGonigle  
19 Douglas Drive  
Norwalk, CT 06850

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~~  
~~XX~~  
~~XXXXXX~~ 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

13th day of September, 1976.

Carmen Mottolese

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

LAWRENCE J. MC GONIGLE AND  
LORETTA M. MC GONIGLE

AFFIDAVIT OF MAILING

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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)~~ :  
1969 and 1970.

State of New York  
County of Albany

Carmen Mottolese, 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 13th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Donald Sosnowitz, 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: Donald Sosnowitz, C.P.A.  
1100 Bedford Street  
Stamford CT

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) 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

13th day of September, 1976.

Carmen Mottolese

Janet Mark



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

September 13, 1976

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

Mr. & Mrs. Lawrence J. McGonigle  
19 Douglas Drive  
Norwalk, CT 06850

Dear Mr. & Mrs. McGonigle:

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,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
LAWRENCE J. MC GONIGLE	:	DECISION
and	:	
LORETTA M. MC GONIGLE	:	
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1969 and 1970	:	

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Petitioners, Lawrence J. McGonigle and Loretta M. McGonigle, 19 Douglas Drive, Norwalk, Connecticut, have filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970. (File Nos. 9-33169058 and 0-53161056.)

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on March 20, 1975 at 2:45 P.M. Petitioners appeared by Donald Sosnowitz, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Alexander Weiss, Esq., of Counsel.) At the formal hearing it was agreed that the case would be submitted to the State Tax Commission for a decision based on the information contained in the file.

ISSUE

Whether the days that petitioner, Lawrence J. McGonigle, spent working in Connecticut during the years 1969 and 1970 may be allocated to working days outside of New York State for income tax purposes.

FINDINGS OF FACT

1. Petitioners, Lawrence J. McGonigle and Loretta M. McGonigle, timely filed New York State nonresident personal income tax returns for the years 1969 and 1970.

2. On May 21, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Lawrence J. McGonigle and Loretta M. McGonigle for the year 1969. It accordingly issued a Notice of Deficiency in the sum of \$1,089.19. On the same date a Statement of Audit Changes for the year 1970 was also issued. The Income Tax Bureau issued a Notice of Deficiency in the sum of \$969.60 for that year. The Statements of Audit Changes disallowed days working in Connecticut by petitioner, Lawrence J. McGonigle.

3. Petitioners, Lawrence J. McGonigle and Loretta M. McGonigle, were residents of the State of Connecticut during the years 1969 and 1970.

4. Petitioner, Lawrence J. McGonigle, was vice president for chain drugstore sales for Revlon during the years 1969 and 1970. His duties included servicing accounts with chain stores located within Connecticut.

5. Petitioner, Lawrence J. McGonigle, worked 258 days in 1969. He spent 151 of these days working outside of New York State. He spent 55 of the 151 days working in Connecticut. He spent 26 of the 55 days servicing his chain store accounts. He worked at his home in Connecticut on the remaining 29 days.

6. Petitioner, Lawrence J. McGonigle, worked 234 days in 1970. He spent 125 of these days working outside of New York State. He spent 28 of the 125 days working in Connecticut. He spent 14 of the 28 days servicing his chain store accounts. He worked at his home in Connecticut on the remaining 14 days.

CONCLUSIONS OF LAW

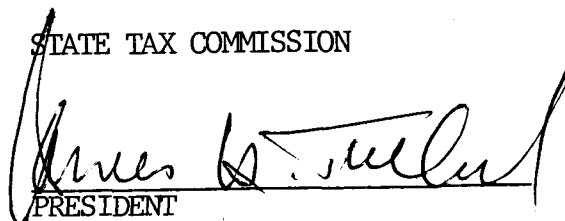
A. That the 29 days during the year 1969 and the 14 days during the year 1970 worked at home in Connecticut by petitioner, Lawrence J. McGonigle, were worked there by reason of his necessity and convenience and not for the necessity of his employer, and, therefore said days must be held to be days worked within New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20NYCRR 131.16. However, the 26 days during the year 1969 and the 14 days during the year 1970 petitioner, Lawrence J. McGonigle, spent servicing his Connecticut chain store accounts may be allocated as days worked outside New York State.

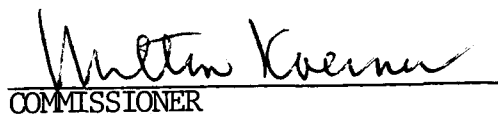
B. That the petition of Lawrence J. McGonigle and Loretta M. McGonigle is granted to the extent of reducing additional personal income tax due for the year 1969 from \$881.24 to \$573.89 and for the year 1970 from \$861.12 to \$569.15 together with such interest as may be lawfully due; that the penalty imposed for the year 1969 in the sum of \$44.06 pursuant to section 685(b) of the

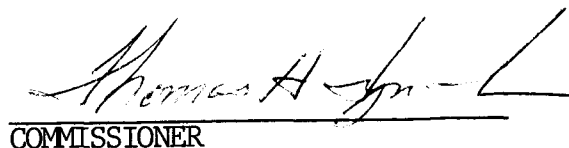
Tax Law is cancelled; that the Income Tax Bureau is hereby directed to accordingly modify the notices of deficiency issued May 21, 1973; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, N.Y.  
September 13, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
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**FORMAL HEARING**

TA-26 (4-76) 25M

**STATE OF NEW YORK**

**Department of Taxation and Finance**

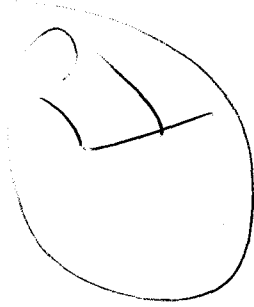
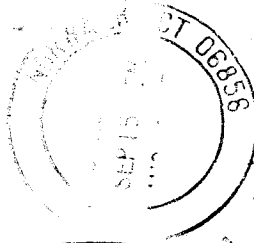
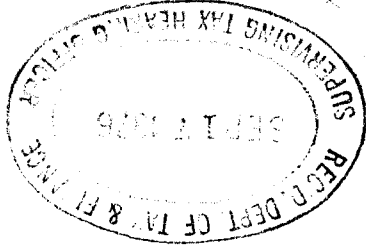
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X



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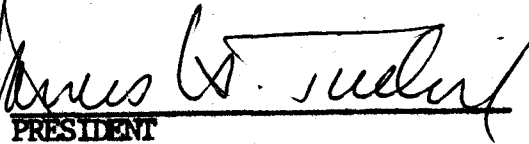
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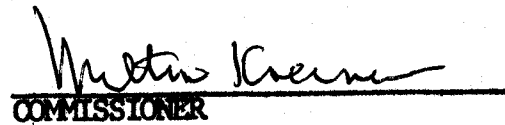
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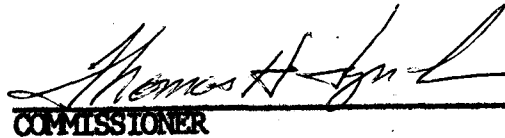
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