

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
PAUL L. SCHOOS and MARY L. SCHOOS :
:
For a Redetermination of a Deficiency or
a Refund of Personal Income :
Taxes under Article ~~xx~~ 22 of the
Tax Law for the Year ~~xx~~ 1967. :

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

State of New York
County of Albany

MARYLOU SAMUELS , 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 3rd day of May , 1976, she served the within
Notice of Decision ~~xx Determination xx~~ by (certified) mail upon Paul L. Schoos and
Mary L. Schoos ~~xx representative of xx~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. and Mrs. Paul L. Schoos
343 Windsor Terrace
Ridgewood, New Jersey 07450
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 ~~xx representative~~
~~xx~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~xx representative of the xx~~ petitioner.

Sworn to before me this

3rd day of May , 1976.

Janet Mack

Marylou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

May 3, 1976

457-3850

TELEPHONE: (518)

Mr. and Mrs. Paul L. Schoos
343 Windsor Terrace
Ridgewood, New Jersey 07450

Dear Mr. and Mrs. Schoos:

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.

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: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PAUL L. SCHOOS and MARY L. SCHOOS	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1967.	:	

Paul L. Schoos and Mary L. Schoos, who reside at 343 Windsor Terrace, Ridgewood, New Jersey 07450, filed a petition for the re-determination of a deficiency notice issued under date of November 24, 1969, in the amount of \$393.28 plus interest of \$33.57 for a total of \$426.85 (of which the sum of \$173.37 has been paid) for personal income tax under Article 22 of the Tax Law for the year 1967. (File No. 89002326.)

A hearing was duly held before Nigel G. Wright, Hearing Officer, on January 11, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York City.

The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether certain income received by petitioners is to be considered to be from New York sources when the income was paid to petitioners by an employer to reimburse them for the expenses of moving from New Jersey to New York State in connection with a job transfer from the employer's office in New York City to its business premises in upstate New York.

FINDINGS OF FACT

1. Petitioner resided in Ridgewood, New Jersey, where he owned a house, until 1967. On July 3, 1967, he moved to Corning, New York. This was in connection with his transfer by his employer, Ingersoll-Rand Co. He had been working in their New York City office in a job requiring much traveling. He was being reassigned to their plant in Corning, New York. The expenses of a moving van and other direct expenses of the move were apparently paid directly by the employer and are not involved herein.

2. Petitioner incurred certain indirect expenses in the transfer for which he was reimbursed by his employer. The expenses of selling his residence were \$2,817.90 broken down as follows: brokers commission, \$2,340.00; legal fees, \$125.00; revenue stamps, \$42.90; recording fee, \$10.00; and a mortgage prepayment charge of \$530.00 of which

he was reimbursed only \$300.00. Expenses of establishing a new residence were \$106.98 consisting of the costs of drapes and carpeting and the installation of a washer and dryer. Ingersoll-Rand Co. reimbursed him for these expenses and in addition paid him \$760.12 to offset any increased Federal tax liability. The total reimbursement amounted to \$3,685.00. There is no testimony as to when this was received, but presumably it was received after petitioner completed the move and while he was a New York resident.

3. Petitioner received wages from Ingersoll during 1967 of \$18,405.00, as shown on his Federal withholding statement. Of this amount, \$14,720.00 represented salary and \$3,685.00 constituted a reimbursement of moving expenses. He reported the income on his Federal return, but the indirect moving expenses were not deducted on petitioner's Federal return.

4. Petitioner filed a New York return as a nonresident showing \$7,350.00 of wages earned for Federal purposes, but only \$4,900.00 earned in New York for New York purposes. This difference is apparently attributable to an unstated allocation of wages to other states. He also filed a New York resident return showing \$7,370.00 earned for both New York and Federal purposes.

5. The deficiency notice in issue makes two minor adjustments in income which are not contested and adds the sum of \$3,685.00 representing the reimbursement of moving expenses to petitioner's income. This income is not apportioned between the resident and nonresident returns, but rather a tax is computed under section 654(d) of the Tax Law which provides that the total tax paid on the two returns should not be less than would be due if the New York taxable income reported on both returns were reportable on one return.

CONCLUSIONS OF LAW

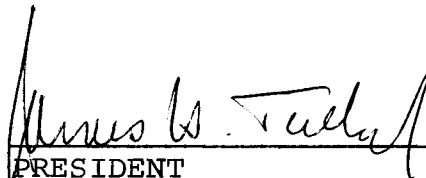
The income here in question is clearly attributable to employment and such employment was at all times in New York. Such income is clearly from New York sources and is taxable to petitioners.

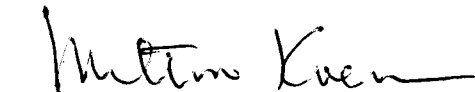
DECISION

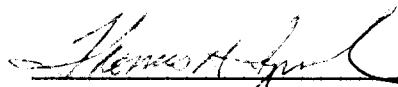
The deficiency is correct as issued and is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York
May 3, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER