

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
MICHAEL T. & HARRIET Y. BIONDO

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) :  
1972

State of New York  
County of Albany

Bruce Batchelor , 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 25th day of May , 1977 , she served the within  
Notice of Decision by (certified) mail upon Michael T. & Harriet Y.

Biondo ~~(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. Michael T. Biondo  
16 Indian Spring Trail  
Darien, Connecticut 06820

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)~~  
~~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

25th day of May , 19 77

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MICHAEL T. HARRIET Y. BIONDO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (8) 22 of the :  
Tax Law for the Year ~~(XXXXXX Period(s))~~ :  
1972

State of New York  
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that  
he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 25th day of May , 19 77, he served the within  
Notice of Decision by (certified) mail upon Myron I. Divitorio, CPA  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Myron I. Divittorio & Saverin, CPA  
747 Third Avenue  
New York, New York 10017  
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

25th day of May , 19 77

Bruce Batchelor

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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 25, 1977

TELEPHONE: (518) ~~497-1721~~

Mr. & Mrs. Michael T. Biundo  
16 Indian Spring Trail  
Darien, Connecticut 06820

Dear Mr. & Mrs. Biundo:

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

Please take further notice that pursuant to  
Section(s) **xx 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: Petitioner's Representative:

Myron I. Divittorio & Saverin, CPA  
747 Third Avenue  
New York, New York 10017

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
MICHAEL T. and HARRIET Y. BIONDO	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1972.	:	

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Petitioners, Michael T. and Harriet Y. Biondo, residing at 16 Indian Spring Trail, Darien, Connecticut 06820, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972 (File No. 13531).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on August 24, 1976 at 2:45 p.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioners appeared by Myron I. Divitorio, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq. (P. Rosenkranz, Esq. of counsel).

#### ISSUE

Whether fifteen days worked at Darien, Connecticut can be considered as days worked outside New York State for income allocation purposes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Michael T. Biondo, is an employee of St. Regis Paper Company and is responsible for the corporation's sales which exceeded a billion dollars during 1973.

2. Petitioner performed services in Connecticut in 1972, at his home, at the country club and at a Holiday Inn. At these locations, he prepared reports, entertained clients and held staff meetings. These services were performed in Connecticut to avoid interruptions which might occur in the New York office and to provide the proper atmosphere for the accomplishment of these activities, and not because he was obligated to do so by his employer.

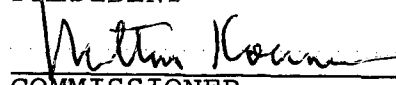
3. That the fifteen days worked in Connecticut were worked there for petitioner's own convenience and not for the necessity of his employer. Therefore, these days must be considered as days worked in New York for income allocation purposes, within the meaning and intent of 20 NYCRR 131.16.

4. That the petition of Michael T. and Harriet Y. Biondo is denied and the Notice of Deficiency issued September 30, 1974 is sustained.

DATED: Albany, New York  
May 25, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER