

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD and ALMA BROTMAN

AFFIDAVIT OF MAILING

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

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 27th day of April , 1977, ~~he~~ served the within  
Notice of Decision by (certified) mail upon Richard & Alma Brotman

(~~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. Richard Brotman  
767 Downing Street  
Teaneck, New Jersey 07666

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~~  
~~xxxx~~) 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

27th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD and ALMA BROTMAN

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

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that  
xhe is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 27th day of April , 1977, xhe served the within  
Notice of Decision by (certified) mail upon Marvin Freeman  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Marvin Freeman, CPA  
Gardner, Waschler, Freeman & Co.  
475 Park Avenue South  
New York, New York 10016  
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

27th day of April , 1977.

Bruce Batchelor

Janet Mack



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

April 27, 1977

TELEPHONE: (518) **437-1723**

Mr. & Mrs. Richard Brotman  
767 Downing Street  
Teaneck, New Jersey 07666

Dear Mr. & Mrs. Brotman:

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

Please take further notice that pursuant to  
Section(3) **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*

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

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	:	
RICHARD and ALMA BROTMAN	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	

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Petitioners, Richard and Alma Brotman, residing at 767 Downing Street, Teaneck, New Jersey 07666, 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 1969 (File No. 9-33153890).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on July 16, 1976 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Marvin Freeman. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

#### ISSUE

Whether the days worked at the petitioner's home in New Jersey constituted days worked outside New York State for purposes of allocating salary income received from System for Human Services, Inc.

FINDINGS OF FACT

1. Petitioners, Richard and Alma Brotman, filed a New York State income tax nonresident return for the year 1969. The salary income received by the petitioner, Richard Brotman, from Flower Fifth Avenue Hospital and System for Human Services, Inc. was allocated according to the days worked within and without New York State.

2. The Income Tax Bureau issued a deficiency based upon a Statement of Audit Changes whereby an allocation of the salary income from Flower Fifth Avenue Hospital was allowed according to the days worked within and without New York State. However, an allocation was not allowed for the salary income received from System for Human Services, Inc.

3. On June 4, 1969, the petitioner, Richard Brotman, and a Dr. Alfred Freedman, organized a New York corporation, known as System for Human Services, Inc. This entity was created to perform services as consultants in the field of mental health.

4. Since the corporation had no office, in New York or elsewhere, the petitioner, Richard Brotman, performed services in New York State and at his home in the State of New Jersey. Dr. A. Freedman performed services in and out of his New York home.

5. Although System for Human Services, Inc. used 605 Third Avenue, New York, New York, as its address for mailing and other purposes, this was the address of the accountants for the corporation.

6. The petitioner, Richard Brotman, maintained records, wrote reports and met with clients at the office he maintained in his home in New Jersey.

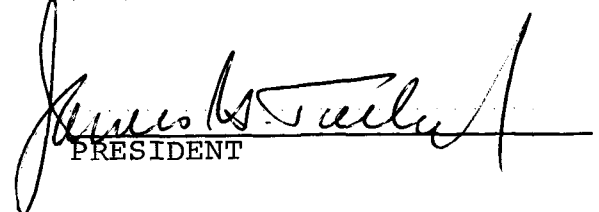
CONCLUSIONS OF LAW

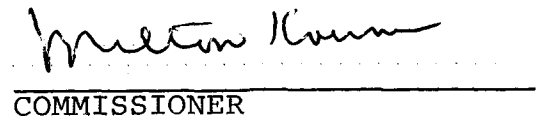
A. That although no office space was provided by the petitioner's New York employer, the days worked by petitioner at his home in New Jersey were for the convenience of the petitioner and not for the necessity of the employer. Accordingly, the days worked by the petitioner at his home in New Jersey in 1969 constituted days worked within New York State within the meaning and intent of 20 NYCRR 131.16 and all of the petitioner's salary from System for Human Services, Inc. was allocable to New York State.

B. That the petition of Richard and Alma Brotman is denied and the Notice of Deficiency issued January 29, 1973 is sustained.

DATED: Albany, New York  
April 27, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER