

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
JOSEPH CHOMYN and ANITA CHOMYN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~75~~ 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 14th day of April , 1977, she served the within

Notice of Decision by (certified) mail upon Joseph Chomyn and
Anita Chomyn (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. and Mrs. Joseph Chomyn
6 Amherst Place
Upper Montclair, New Jersey 07043
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

14th day of April , 1977

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH CHOMYN and ANITA CHOMYN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~20~~ 22 of the :
Tax Law for the Year ~~(six or Periods)~~ :
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 14th day of April , 19 77, she served the within
Notice of Decision by (certified) mail upon Jerome Schlessinger, PA
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Jerome Schlessinger, PA
80-32A Jamaica Avenue
Woodhaven, New York 11421
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

14th 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

April 14, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-1723**

Mr. and Mrs. Joseph Chomyn
6 Amherst Place
Upper Montclair, New Jersey 07043

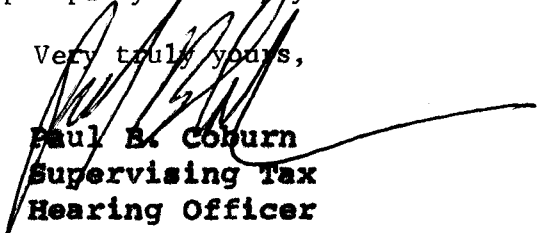
Dear Mr. & Mrs. Chomyn:

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

Please take further notice that pursuant to
Section ~~730~~ **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

In the Matter of the Petition	:	
of	:	
JOSEPH CHOMYN AND ANITA CHOMYN	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1972.	:	

Petitioners, Joseph Chomyn and Anita Chomyn, 6 Amherst Place, Upper Montclair, New Jersey 07043, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972. (File No. 10109).

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 17, 1976 at 10:45 A.M. The petitioners appeared by Jerome Schlessinger. The Income Tax Bureau appeared by Peter J. Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioners, Joseph Chomyn and Anita Chomyn, properly allocated income derived from work at home in New Jersey by Joseph Chomyn, as income allocable to sources outside New York State for the year 1972.

FINDINGS OF FACT

1. Petitioners, Joseph and Anita Chomyn, filed a New York State nonresident income tax return for the year 1972. They listed total Federal income as \$51,693.00. Total New York State income was listed as \$21,456.00, which was arrived at by deducting 120 days as days allocated to work outside New York State.

2. On November 24, 1975, the Income Tax Bureau issued a Notice of Deficiency consisting of a deficiency of \$3,000.72, plus \$587.60 in interest, for a total of \$3,588.32.

3. Petitioners, Joseph and Anita Chomyn were nonresidents of New York State during the period in issue.

4. During the period in question, petitioner, Joseph Chomyn, worked for Proctor and Gamble, Inc. as director of a "soap opera". The duties of the petitioner included extensive preparation in order to arrange action sequences for the "soap opera". Most of the preparatory work was done by the petitioner at his home in New Jersey.

5. The petitioners, Joseph and Anita Chomyn, offered no documentary or other substantial evidence that an office could not have been set up in New York, or that petitioner, Joseph Chomyn's services were performed in his residence of necessity, as distinguished from convenience.

CONCLUSIONS OF LAW

A. That, since the services performed at home by petitioner, Joseph Chomyn, during the year 1972 were for his convenience, rather than the actual necessity of his employer, therefore, all days worked at home were allocable as income derived from New York State within the meaning and intent of section 632 of the Tax Law and 20 NYCRR 131.16.


B. That the petition of Joseph Chomyn and Anita Chomyn is denied, and the Notice of Deficiency issued November 24, 1975 is sustained.

DATED: Albany, New York
April 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER