

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN E. HARR and NANCY B. HARR

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) ~~or Period(s)~~ 1971. :

AFFIDAVIT OF MAILING

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 8th day of April , 1977, ~~he~~ served the within
Notice of Decision by (certified) mail upon John E. & Nancy B. Harr

(~~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. John E. Harr
35 Highland Avenue
Glen Ridge, New Jersey 07028

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

8th day of April , 1977.

Bruce Batchelor

Just Truck



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 8, 1977

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

Mr. & Mrs. John E. Harr
35 Highland Avenue
Glen Ridge, New Jersey 07028

Dear Mr. & Mrs. Harr:

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

Please take further notice that pursuant to
Section(§) **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: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

In the Matter of the Petition
of
JOHN E. HARR and NANCY B. HARR
for Redetermination of a Deficiency or
for Refund of Personal Income Taxes
under Article 22 of the Tax Law for
the Year 1971.

Petitioners, John E. Harr and Nancy B. Harr, residing at 35 Highland Avenue, Glen Ridge, New Jersey 07028, 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 1971. (File No. 1-73087261).

ISSUE

Whether days worked by petitioner, John E. Harr, at his home in New Jersey during the year 1971 constituted days worked outside of New York State.

FINDINGS OF FACT

1. Petitioners, John E. Harr and Nancy B. Harr, timely filed a New York State income tax nonresident return for the year 1970.

2. On October 5, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, John E. Harr and Nancy B. Harr, imposing additional income tax due upon the grounds that petitioner, John E. Harr, improperly allocated 92 days he worked at his home in New Jersey as days worked outside of New York State. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency on January 27, 1975 in the sum of \$1,526.84.

3. Petitioners, John E. Harr and Nancy B. Harr, were residents of the State of New Jersey during the year 1971.

4. Since 1967, petitioner, John E. Harr, has been employed as an associate of Mr. John D. Rockefeller III and performed his services as an employee in Mr. Rockefeller's New York City offices. His services as an employee of Mr. Rockefeller primarily consists of writing assignments such as speeches and articles.

5. During 1971, petitioner, John E. Harr, was directed to begin a major assignment which involved the first draft of a book. In order to allow petitioner, John E. Harr, to work in an atmosphere conducive to writing, Mr. Rockefeller suggested that applicant do his work at an office other than the one located in New York City. Several locations were considered, none

of which were located within New York State, until petitioner and Mr. Rockefeller agreed that the ideal writing environment would be achieved at the private office applicant maintained in his New Jersey home.

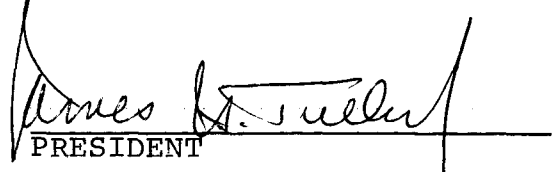
CONCLUSIONS OF LAW

A. That, the 92 days worked at home in New Jersey during the year 1971 by petitioner, John E. Harr, were worked there by reason of his convenience and not for the necessity of his employer and, therefore, said 92 days must be held to be days worked within New York in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

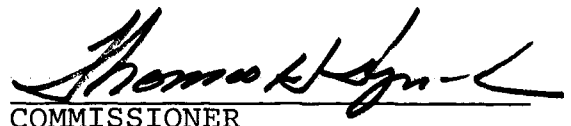
B. That, the petition of John E. Harr and Nancy B. Harr is denied and the Notice of Deficiency issued on January 27, 1975 is sustained.

DATED: Albany, New York
April 8, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER