

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SHALOM WEYL and LOTTE WEYL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(*)~~ 22 of the
Tax Law for the Year ~~(*)~~ 1966. :

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 12th day of May , 1977, she served the within
Notice of Decision by (certified) mail upon Shalom and Lotte Weyl

~~(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. Shalom Weyl
319 Marlboro Road
Englewood, NJ 07631

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)~~
~~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

12th day of May , 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

May 12, 1977

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

Mr. & Mrs. Shalom Weyl
319 Marlboro Road
Englewood, NJ 07631

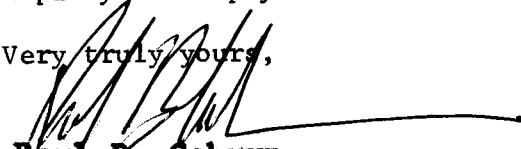
Dear Mr. & Mrs. Weyl:

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

Please take further notice that pursuant to
Section ~~(30)~~ **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 :
SHALOM WEYL AND LOTTE WEYL :
for Redetermination of Deficiency or for :
Refund of Personal Income Tax under Article 22 :
of the Tax Law for the Year 1966. :

DECISION

Petitioners, Shalom Weyl and Lotte Weyl, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1966. (File No. 6-53065180). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on April 24, 1972, at 1:30 P.M. Petitioner, Shalom Weyl, appeared in person and for his wife, Lotte Weyl. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Solomon Sies, Esq., of counsel).

ISSUES

I. Whether all of the salary income received by petitioner Shalom Weyl from The City College of New York and Yeshiva University, during the year 1966 is allocable to New York State.

II. Whether petitioner Shalom Weyl may deduct expenses in connection with a home office, and allocate one-half of such expenses to New York State.

FINDINGS OF FACT

1. Petitioners, Shalom Weyl and Lotte Weyl, filed a New York State income tax nonresident return for the year 1966, on which they allocated the income received by petitioner Shalom Weyl based upon the number of half-days he claimed to have worked within and without New York State during said year.

2. On February 13, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Shalom Weyl and Lotte Weyl, disallowing the allocation of petitioner Shalom Weyl's salary income for the year 1966. Subsequently, on August 26, 1968, it issued a Notice of Deficiency in the sum of \$404.53.

3. Petitioners, Shalom Weyl and Lotte Weyl, were residents of the State of New Jersey during the year 1966.

4. Petitioner Shalom Weyl was employed as an assistant professor of Germanic and Slavic Languages at The City College of New York during the year 1966. He also taught one course at Yeshiva University during a portion of said year. He received salary income from City College of \$16,441.97 and had earnings from Yeshiva University of \$330.00 during 1966. Petitioner spent 246 half-days during the year teaching at City College and

Yeshiva University. This teaching was done in New York State. He also spent 246 half-days at his home in New Jersey during said year preparing for the classes to be taught at City College and at Yeshiva.

5. During the year 1966, petitioner Shalom Weyl taught at The City College of New York 5 days a week, from 1 or 2 p.m. to 4 or 5 p.m. and also taught 2 or 3 evenings a week. Professor Weyl did not keep a diary or other record of the times and dates upon which he taught. He was not certain whether he had taught during the 1966 summer session at City College. Professor Weyl also taught at Yeshiva University during his free time between the hours of 4 and 6 p.m., 2 or 3 times a week for a period of slightly under 3 months in 1966, in order to help a professor at Yeshiva who had suffered a heart attack.

6. In 1966, Professor Weyl's assigned office space at City College was a cubicle shared with the day supervisor of his department until 1 or 2 p.m. and with the evening supervisor, from about 4 p.m. on. The office space was usually only available for Professor Weyl's exclusive use from 1 to 4 p.m., the time during which he was usually required to be teaching in the classroom. The cubicle contained 1 desk and 2 chairs. Professor Weyl testified that both he and his evening supervisor had found the arrangement to be inconvenient, since it meant that after 4 p.m. Professor Weyl would be working in the cubicle while

the supervisor was interviewing students or holding conferences. Professor Weyl prepared some of his work in the library at City College but contended that he had to provide his own office in order to prepare examinations and perform other work of a confidential nature.

7. For the year 1966, petitioner Shalom Weyl filed a Schedule C of Federal form 1040 and reported thereon a loss of \$1,011.21 from his activities as a writer. No gross receipts or sales were shown. The loss resulted principally from expenses connected with the use of a room in his home in New Jersey as an office. On their 1966 New York State income tax return, petitioners allocated one-half of said loss to New York State and deducted a loss of \$505.66. At the formal hearing, Professor Weyl contended that if all of his income was held to be subject to New York State income tax, he should be permitted to deduct all of said loss. At the same time, the Income Tax Bureau moved to amend the Statement of Audit Changes to disallow the entire loss.

CONCLUSIONS OF LAW

A. That the half-days worked at home in New Jersey during the year 1966 by petitioner Shalom Weyl were worked there by reason of his necessity and convenience and not for the necessity of his employers and therefore such half-days must be held to be half-days worked within New York State in accordance with the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

B. That petitioner Shalom Weyl has not sustained the burden of proof required under section 162 of the Internal Revenue Code and pertinent Regulations to show: That he was required, as a condition of his employment, to maintain an office in his home to perform a portion of his duties as a teacher for The City College of New York; that he regularly used a portion of his residence for that purpose; and that he kept records indicating the extent of such use. Therefore, the expenses of \$505.60 claimed by petitioner Shalom Weyl for the use of his home, with respect to his teaching activities for The City College of New York are disallowed, as they are considered to be nondeductible personal expenses within the meaning and intent of section 262 of the Internal Revenue Code.

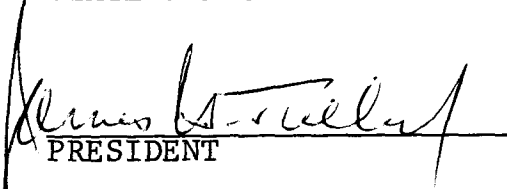
C. That the Income Tax Bureau is directed to exclude from the computation of petitioners' total New York income, dividended income of \$23.50 and interest income of \$25.97, as such amounts do not constitute items of income from New York sources within the meaning and intent of section 632(b)(2) of the Tax Law.

D. That the petition of Shalom Weyl and Lotte Weyl is denied, the motion of the Income Tax Bureau to amend the Statement of Audit Changes is granted and the Income Tax Bureau is

directed to accordingly modify the Notice of Deficiency
issued August 26, 1968 to show a deficiency of \$399.33,
plus the amount of interest legally due and owing.

DATED: Albany, New York
May 12, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

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SHALOM WEYL AND LOTTE WEYL

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Taxes under Article (22) of the :
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State of New York
County of Albany

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20th day of May , 1977.

Bruce Batchelor

Janet Mack

TA-26 (4-76) 25M

FORWARD SHIPPING

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

*Certified mail cannot be forwarded
outside the country*

XB X 16

~~Mr. & Mrs. Shalom Weyl
319 Marlboro Road
Englewood, NJ 07631~~