

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GEORGE GRENADIER and DEL GRENADIER
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s)~~ ~~1970~~ ~~(s)~~ 1970. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

John Huhn , 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 August , 1978, he served the within
Notice of Decision by (certified) mail upon George & Del Grenadier

(~~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. George Grenadier
6 Prospect Road
Westport, Connecticut 06880

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 August , 1978.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

August 25, 1978

**Mr. & Mrs. George Grenadier
6 Prospect Road
Westport, Connecticut 06880**

Dear Mr. & Mrs. Grenadier:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(*)~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywaty
Hearing Examiner**

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

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|---|---|----------|
| In the Matter of the Petition | : | |
| of | : | |
| GEORGE GRENADIER and DEL GRENADIER | : | DECISION |
| for Redetermination of a Deficiency or | : | |
| for Refund of Personal Income Tax under | : | |
| Article 22 of the Tax Law for the Year | : | |
| 1970. | : | |

Petitioners, George Grenadier and Del Grenadier, 6 Prospect Road, Westport, Connecticut 06880, 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 1970 (File No. 14234).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 28, 1977 at 10:45 A.M. Petitioner appeared pro se and for his wife, petitioner Del Grenadier. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether the days on which petitioner George Grenadier worked at his home in Connecticut in 1970 constituted days worked outside New York State for income allocation purposes.

FINDINGS OF FACT

1. Petitioners, George Grenadier and Del Grenadier, filed a New York State income tax nonresident return for 1970, on which the salary income of petitioner George Grenadier was allocated to New York State on the basis of the ratio that 173 days bore to 242 days. On this return, petitioner George Grenadier claimed 173 days as days worked in New York State, 69 days as days worked outside New York State and 242 total working days.

2. On January 10, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners which increased petitioner George Grenadier's total working days to 246, counted 40 days worked at home (included in the 69 days claimed to have been worked outside New York State) as days worked within New York State and allocated his salary income on the basis of the ratio that 217 days bore to 246 days. In accordance with the Statement of Audit Changes, a Notice of Deficiency was issued against petitioners in the amount of \$946.80, plus interest of \$158.24, for a total due of \$1,105.04. Petitioner George Grenadier is not contesting the adjustment to his total working days.

3. During 1970 petitioner George Grenadier was a stockholder and the president of Grenadier Corporation, a structural waterproofing and masonry-restoration contracting firm. Grenadier Corporation is a New York corporation with offices in the Borough of the Bronx in New York City.

4. Said corporation was licensed to conduct business in the states of Connecticut, Pennsylvania, and New Jersey, but no corporate offices were maintained in any of these states.

5. Petitioner George Grenadier contended that his job duties required him to work evenings and weekends and that the 40 days on which he worked at home in Connecticut were worked there out of necessity, since his employer's New York City office was closed during evenings and weekends due to the high crime rate in the area. He also contended that he frequently visited job sites in Connecticut while working from his home. However, Mr. Grenadier's diary did not indicate that he worked at any job sites in Connecticut on the days listed as worked at home, nor did it list the purpose and nature of the duties he performed at home.

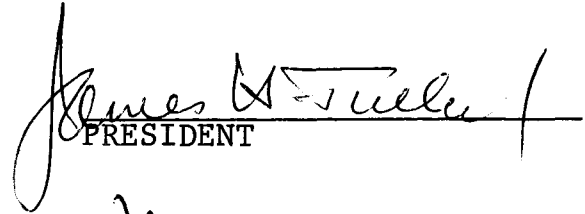
CONCLUSIONS OF LAW


A. That petitioner George Grenadier has failed to sustain the burden of proof required to show that the 40 days on which he worked at his home in 1970 were days worked there by reason of the necessity of his employer rather than for his own convenience, or that he worked any of said days at job sites in Connecticut. Therefore, said days constituted days worked within New York State for income allocation purposes within the meaning and intent of section 632(c) of the Tax Law and 20 NYCRR 131.16.

B. That the petition of George and Del Grenadier is denied and the Notice of Deficiency issued January 28, 1974 in the sum of \$1,105.04 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
August 25, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER