

STATE OF NEW YORK
STATE TAX COMMISSION

David T. & Winifred Hersch
P.I.

June 5/1964

In the Matter of the Petition

of

DAVID T. & WINIFRED HERSCH

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1964

State of New York
County of Albany

Martha Funaro , 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 7th day of July , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon David T. &
Winifred Hersch (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: David T. & Winifred Hersch
11740 Wilshire Blvd.
Los Angeles, California 90025

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

7th day of July , 1971

Rai Zimmerman

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
DAVID T. & WINIFRED HERSCH	:	
for Redetermination of a Deficiency	:	DECISION
or for Refund of Personal Income	:	
Taxes under Article 22 of the Tax Law	:	
for the year 1964.	:	

David T. and Winifred Hersch 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 1964. The petitioners, residents of the State of California, desired to avoid the inconvenience and expense that a personal appearance within the State of New York would entail. Their request was granted that a complete and independent review of their file be made by the State Tax Commission in place of a formal hearing.

FINDINGS OF FACT

1. The petitioners filed a New York State combined income tax resident return and an unincorporated business tax return, for the year 1964.

2. On May 1, 1967, the Income Tax Bureau issued a Notice of Deficiency for the year 1964 (File #49214549) in the amount of \$376.16 plus statutory interest. An overpayment in the amount of \$375.41 (including interest) attributable to the year 1965, was noted as an offset to the asserted deficiency.

The petitioners' tax liability had been recomputed based on

a finding that the petitioner had terminated his business and became a nonresident in November, 1964.

3. The petitioner became a resident of the State of California in November, 1964, upon his removal from New York State and signing a lease to a new apartment. He terminated his insurance business in New York State on or about the same time.

4. The petitioner reported dividend and interest income for the entire year, although 2/12th's thereof pertains to the period of nonresidence and is not taxable to the State of New York.

5. A partnership loss claimed in the amount of \$10,155.26 was determinable during the period of nonresidence and is attributable to the period of nonresidence, and disallowed on the resident tax return.

DECISION

A. The Notice of Deficiency is correct and is sustained.

B. The petition is denied.

DATED: Albany, New York

July 7, 1971

STATE TAX COMMISSION

Norman Gelman

COMMISSIONER

Bruce Marley

COMMISSIONER

Walter Kerner

COMMISSIONER