

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD L. ECKSTEIN

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) 1966 & 1967.:

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

State of New York
County of Albany

Linda Wilson, 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 29th day of December, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon LEONARD L.

ECKSTEIN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Leonard L. Eckstein
U. S. Dredge Markham - Corps of Engineers
Cleveland Warehouse
Cleveland, Ohio 44114
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

29th day of December, 1971.

Martha Fumero

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD L. ECKSTEIN

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) 1966 & 1967 :

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State of New York
County of Albany

Linda Wilson, 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 29th day of December, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon LEROY L.

WINKELSAS (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: LeRoy L. Winkelsas
109 Roesch Avenue
Buffalo, New York 14207

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

29th day of December, 1971.

Martha Fando

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LEONARD L. ECKSTEIN	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Years 1966 and 1967	:	

The taxpayer, Leonard L. Eckstein, filed a petition for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1966 and 1967.

A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on August 16, 1971. Leroy L. Winkelsas represented the taxpayer. Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel) appeared on behalf of the Income Tax Bureau.

ISSUE

Was the taxpayer a resident of New York State during the years 1966 and 1967 and subject to New York State income tax?

FINDINGS OF FACT

1. The taxpayer filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1966 and 1967.

2. Taxpayer, prior to March 23, 1966, resided in Buffalo, New York. He permanently removed from Buffalo, New York on March 23, 1966, and took up residence in Cleveland,

Ohio, with the Corps of Engineers and he lived on a harbor dredge permanently operating in the Cleveland, Ohio waters of Lake Erie, and all of his income was derived from his work in Ohio. He moved all of his belongings to Ohio, he licensed his car in Ohio and moved his bank account to Ohio. He belongs to the Disabled American Veterans in Cleveland, Ohio.

3. The taxpayer is divorced from his wife and pays no alimony to his wife. His wife and three children live in Kenmore, New York at their own residence.

4. Before leaving for Ohio, the taxpayer had difficulty with his marriage, maintained no steady employment, and had emotional problems attendant thereto. He moved from New York State to start a new life.

5. The taxpayer has had no intention of returning to New York State.

CONCLUSIONS OF LAW

A. Special permission is granted for Leroy L. Winklesas to appear before the Commission in this case only.

B. The petitioner was not a resident of New York State and his income was not subject to New York State income taxes in 1966 and 1967.

C. The determination of the Income Tax Bureau is set aside and the taxpayer's petition is sustained.

DATED: Albany, New York

December 29, 1971.

STATE TAX COMMISSION

Norman Gelman

COMMISSIONER

Bruce Hawley

COMMISSIONER

Milton Krumm

COMMISSIONER