

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
WINSLOW B. CARPENTER AND HELEN C.
CARPENTER
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 and
1967.

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

State of New York
County of Albany

Lynn 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 16th day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon PEAT, MARWICK, MITCHELL & CO. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Peat, Marwick, Mitchell & Co.
345 Park Avenue
New York, New York 10022

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

16th day of March, 1972.

Martha Fox

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 16, 1972

Winslow B. and Helen C. Carpenter
c/o Peat, Marwick, Mitchell & Co.
345 Park Avenue
New York, New York 10022

Dear Sir & Madam:

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 decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
WINSLOW B. CARPENTER AND HELEN C. :
CARPENTER : DECISION
for Redetermination of Deficiency or for :
Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Years :
1966 and 1967. :
:

Petitioners, Winslow B. Carpenter and Helen C. Carpenter, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1966 and 1967. (File No. 9-49989515). 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 October 20, 1971, at 9:15 A.M. Peat, Marwick & Mitchell, C.P.A.'s by John A. Pileski, Esq., appeared for petitioners. Edward H. Best, Esq., (Albert J. Rossi, Esq., of Counsel) appeared for the Income Tax Bureau.

ISSUE

Were petitioners, Winslow B. Carpenter and Helen C. Carpenter, residents of New York State during the years 1966 and 1967?

FINDINGS OF FACT

1. Petitioners, Winslow B. Carpenter and Helen C. Carpenter, filed New York State income tax resident returns for the years 1966 and 1967. All of the income reported on said returns, with the exception of a few hundred dollars in dividends, was earned by petitioner, Winslow B. Carpenter.

2. On January 5, 1970, petitioners, Winslow B. Carpenter and Helen C. Carpenter, filed claims for credit or refund of personal income tax for the years 1966 and 1967.

3. On November 30, 1970, the Income Tax Bureau issued a Notice of Disallowance to petitioners, Winslow B. Carpenter and Helen C. Carpenter, disallowing their claims for credit or refund of personal income tax paid for the years 1966 and 1967.

4. During the years 1966 and 1967, petitioners, Winslow B. Carpenter and Helen C. Carpenter, leased an apartment located at 130 East 18th Street, New York, New York. They had leased this apartment originally in 1952. It was an unfurnished apartment which they subsequently furnished. They listed it as their home address on their New York State and Federal income tax returns for said years. Petitioner, Winslow B. Carpenter's Coast Guard license contained the New York address.

5. During the years 1966 and 1967, petitioner, Winslow B. Carpenter, was a chief engineer for American Export Isbrandtsen Lines. He spent approximately eleven months during the year 1966 and nine months during the year 1967 at sea. His wife, petitioner, Helen C. Carpenter, resided in the apartment in New York City while he was at sea.

6. During the year 1966, petitioners, Winslow B. Carpenter and Helen C. Carpenter, spent fifteen days together in New York State. During the year 1967, they spent sixteen days together in New York State. They spent the balance of said years vacationing in Texas.

7. Petitioner, Winslow B. Carpenter, owned a home in Texas during the years 1966 and 1967. This home had originally belonged to his parents. In 1942, he redeemed the property from a mortgage foreclosure and assumed payment of all mortgage payments, tax payments and repairs. In 1945, his father conveyed a one-half interest in the property to him. His mother devised the other

one-half interest in the property to him in her will. His mother lived in this home during said years. He and his wife spent their vacations with her.

8. During the years 1966 and 1967, petitioners, Winslow B. Carpenter and Helen C. Carpenter, were not registered to vote either in New York State or Texas, did not have wills and did not own grave sites. She had two savings accounts in New York State. He had a checking account in Texas.

CONCLUSIONS OF LAW

A. That during the years 1966 and 1967, petitioners, Winslow B. Carpenter and Helen C. Carpenter, were domiciled in New York State and maintained a permanent place of abode in New York State and therefore, during said years, their income was subject to the New York State personal income tax as resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the petition of Winslow B. Carpenter and Helen C. Carpenter, is denied and the Notice of Disallowance issued November 30, 1970, is sustained.

DATED: Albany, New York
March 16, 1972.

STATE TAX COMMISSION

Norman Guller

COMMISSIONER

Bruce Stanley

COMMISSIONER

Milton Koehn

COMMISSIONER