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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH E. HOBCROFT & ANNETTE HOBCROFT

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

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

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 10th day of July , 19 73, she served the within Notice of Decision (or Determination) by (certified) mail upon Joseph E. & Annette Hobcroft (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph E. & Annette Hobcroft
47 Little East Neck Road
Babylon, New York 11702
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

10th day of July , 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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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 10th day of July, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Roy P. Smith

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Roy P. Smith
166 Woodbine Avenue
Merrick, New York 11566

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

10th day of July, 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 10, 1973

Joseph E. & Annette Hoberoft
47 Little East Neck Road
Babylon, New York 11702

Dear Mr. & Mrs. Hoberoft:

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 E. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
JOSEPH E. HOBCROFT and :
ANNETTE HOBCROFT : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1964. :

Petitioners, Joseph E. Hobcroft and Annette Hobcroft, 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 1964. (File No. 29160382). On April 6, 1973, petitioners' representative, Roy P. Smith, Esq., in writing, waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Were petitioners, Joseph E. Hobcroft and Annette Hobcroft, resident individuals of New York State during the entire year of 1964?

FINDINGS OF FACT

1. Petitioners, Joseph E. Hobcroft and Annette Hobcroft, filed a New York State income tax resident return for the period January 1, 1964 through January 19, 1964. They allocated one-twelfth of their income for the year 1964 to New York State and claimed a refund of \$15.12.

2. On December 13, 1965, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Joseph E. Hobcroft and Annette Hobcroft, imposing New York State personal income tax upon

all of their income reported for Federal income tax purposes for the year 1964, upon the grounds that they were residents of New York State for the entire year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$526.26.

3. Petitioner, Joseph E. Hobcroft, resided in the State of New Jersey from 1930 until 1960.

4. In 1960, petitioner, Joseph E. Hobcroft, accepted a position with the Federal Aviation Agency and was assigned to JFK Airport in New York City. At this time, petitioners resided in a house owned by them in Neshanic Station, New Jersey.

5. In 1961, petitioners, Joseph E. Hobcroft and Annette Hobcroft, purchased a home in North Babylon, New York, where they went to live. They did not sell their home in Neshanic Station, New Jersey.

6. On January 16, 1964, petitioner, Joseph E. Hobcroft, was transferred by the Federal Aviation Agency from New York City to Beirut, Lebanon as an airways flight inspector. He signed a two year contract with his employer. The contract could be extended to six years. Petitioners rented out their home in Neshanic Station, New Jersey and sold their home in North Babylon, New York. They lived in a rented apartment in Lebanon.

7. In July 1968, petitioner, Joseph E. Hobcroft, was transferred from Lebanon to Frankfort, Germany by the Federal Aviation Agency.

8. In July 1970, petitioner, Joseph E. Hobcroft, was transferred from Frankfort, Germany to New York City by the Federal Aviation Agency. Petitioners purchased a home in North Babylon, New York, upon their return to the United States.

9. Petitioners, Joseph E. Hobcroft and Annette Hobcroft, spent less than 30 days in New York State during the year 1964.

CONCLUSIONS OF LAW

A. That petitioners, Joseph E. Hobcroft and Annette Hobcroft, were resident individuals of New York State during the entire year of 1964, in accordance with the meaning and intent of section 605(a) (1) of the Tax Law and 20 NYCRR 102.2 since they were domiciled in New York State during said year and maintained a permanent place of abode in New York State during a portion of said year. They failed to submit sufficient documentary or other sufficient evidence to prove that they did not change their domicile from New Jersey to New York in 1961 or that they changed their domicile from New York to another state or country in 1964.

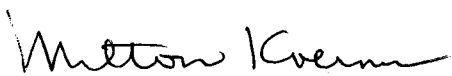
B. That the petition of Joseph E. Hobcroft and Annette Hobcroft is denied and the Notice of Deficiency issued December 13, 1965, is sustained.

DATED: Albany, New York
July 10, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER