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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD L. SCHUMAN

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) 1965, 1966 & :
1967

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 12th day of July , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Edward L. Schuman

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

wrapper addressed as follows: Edward L. Schuman
c/o Reade Theatre
241 E. 34 Street
New York, New York

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

12th day of July , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
EDWARD L. SCHUMAN

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) 1965, 1966 &
1967

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 12th day of July , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Lester H. Hirsh

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Lester H. Hirsh

225 Broadway
New York, New York 10007

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

12th 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. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ~~President~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 12, 1973

**Edward L. Schuman
c/o Rende Theatre
241 E. 34 Street
New York, New York**

Dear Mr. Schuman:

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

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 Months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

L. Robert Leisner

Enc.

HEARING OFFICER

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
EDWARD L. SCHUMAN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1965, 1966 and 1967.	:	

Petitioner, Edward L. Schuman, filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1965, 1966 and 1967. A hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 15, 1972, at 9:30 A.M. The taxpayer was represented by Lester H. Hirsh, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUES

I. Was the taxpayer a resident of the State of New York for the years 1965, 1966 and 1967?

II. Was the taxpayer's amended return for 1965 timely (three years) or was it barred by the Statute of Limitations?

FINDINGS OF FACT

1. Taxpayer filed resident New York State tax returns for 1965, 1966 and 1967. Taxpayer filed amended nonresident returns for these years in 1969.

2. A Notice of Determination of deficiency in income tax

was issued under File No. 84166517 against the taxpayer. He timely filed a petition for redetermination of a deficiency and for a refund.

3. The Income Tax Bureau denied the refund claim and contended that the taxpayer was a resident for New York State income tax purposes for 1965, 1966 and 1967.

4. Taxpayer used an apartment in Michigan which was in one of the theater buildings owned by his corporation and which was contiguous to a theater he managed. The corporation maintained the apartment for the taxpayer.

5. Taxpayer maintained an apartment in New York in 1965, 1966 and 1967.

6. Taxpayer earned about one third of his income in New York.

7. Taxpayer's daughter attended school in New York and at least occasionally shared his New York residence.

8. Taxpayer registered as a voter in the County of New York in 1964, and voted in 1964, 1965 and 1966 in New York State.

9. Estimates varied that taxpayer spent between 70 and 100 days per year in New York in 1965, 1966 and 1967. It is found that the taxpayer spent approximately 80 days per year in New York during each of these three years.

CONCLUSIONS OF LAW

A. Taxpayer was a resident of the State of New York by virtue of the fact that he was domiciled in New York, maintained a permanent place of abode in New York and spent more than 30 days

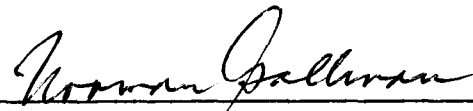
in the State.

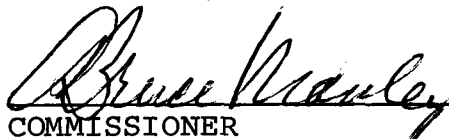
B. The taxpayer's petition is denied.


C. Statutory interest shall be added to the total amount due until time of payment pursuant to the Tax Law.

DATED: Albany, New York
July 12, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER