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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
:
of
:
THOMAS W. BUCKNER
:
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) 1967

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 8th day of February , 1974 , she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas W. Buckner

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Thomas W. Buckner
445 Boynton Avenue
Berkeley, California 94707

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

8th day of February , 19 74

James A. Van Latten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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State of New York
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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 8th day of February , 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Charles Feldman, Esq.

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

wrapper addressed as follows: Charles Feldman, Esq.

c/o Patterson, Belknap & Webb

One Wall Street

New York, New York 10005

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

8th day of February , 1974

Joyce S. Van Patten

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

Mario A. Procaccino,
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 8, 1974

**Mr. Thomas W. Buckner
445 Boynton Avenue
Berkeley, California 94707**

Dear Mr. Buckner:

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,


Paul B. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
THOMAS W. BUCKNER : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1967. :
:

Petitioner, Thomas W. Buckner, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1967. (File No. 89112125). 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 April 25, 1972, and October 19, 1972. Patterson, Belknap and Webb, Esqs., (Charles Feldman, Esq. and Arthur Kroll, Esq., of Counsel), appeared for petitioner. Saul Heckelman, Esq. (Solomon Sies, Esq., of Counsel), appeared for the Income Tax Bureau.

ISSUE

Was petitioner, Thomas W. Buckner, a resident individual of New York State from October 1, 1967 to December 31, 1967?

FINDINGS OF FACT

1. Petitioner, Thomas W. Buckner, filed a New York State income tax resident return for the period from January 1, 1967 to September 30, 1967. He did not file any New York State income tax returns for the remainder of said year.

2. On June 30, 1969, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Thomas W. Buckner, imposing New York State personal income tax upon all of his income for the year 1967, upon the grounds that he did not change his domicile during said year, and that therefore all of his income for said year, as reported for Federal income tax purposes, was subject to tax. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$4,491.95.

3. Petitioner, Thomas W. Buckner, received a BA in 1964 and a MA in 1966 from the University of Santa Clara. He attended Stamford University through the spring term of 1967. He met his present wife during the summer of 1967. They were engaged on October 17, 1967 and married on November 23, 1967. They have resided in California since their marriage. They first resided in an apartment leased by petitioner, Thomas W. Buckner, prior to their marriage. They subsequently purchased a home in California.

4. Petitioner, Thomas W. Buckner, was 26 years of age in 1967. Although he did not work and was a student during said year, he had an independent income from trusts and investments of \$82,032.56. Prior to October 1, 1967, he used his parents apartment in New York City as his legal address, although he spent little time there.

5. Petitioner, Thomas W. Buckner, and his wife registered to vote in California on December 21, 1967.

6. Petitioner, Thomas W. Buckner, and his wife filed a California individual income tax return for the period October 1, 1967 to December 31, 1967. They stated on said return, "became California resident October 1, 1967". They paid an income tax of \$2,869.48

to the State of California.

7. Petitioner, Thomas W. Buckner's automobile was registered in the State of California during the year 1967. He had a California driver's license during said year.

8. Petitioner, Thomas W. Buckner, spent less than 183 days in New York State during the year 1967.

CONCLUSIONS OF LAW

A. That petitioner, Thomas W. Buckner, became a domiciliary of the State of California on October 1, 1967.

B. That since petitioner, Thomas W. Buckner, was not domiciled in New York during the period from October 1, 1967 to December 31, 1967 and since he did not spend more than 183 days in New York State during the year 1967, therefore, he was a nonresident individual during the period from October 1, 1967 to December 31, 1967 in accordance with the meaning and intent of sections 605(a) (2) and 605 (b) of the Tax Law.

C. That the petition of Thomas W. Buckner is granted and the Notice of Deficiency issued June 30, 1969 is cancelled.

DATED: Albany, New York
February 8, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER