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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HOLLIS L. & DOROTHY D. CASWELL

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) 1967 & 1968:

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 20th day of August, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Hollis L. & Dorothy D. Caswell (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Hollis L. Caswell  
Alley Road  
LaGrangeville, New York 12540

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

20th day of August, 1974.

Janet Maesh

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**Dated:** Albany, New York

**August 20, 1974**

**Mr. & Mrs. Hollis L. Caswell**  
**Alley Road**  
**LaGrangeville, New York 12540**

**Mr. & Mrs. Caswell:**

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,

**Nigel G. Wright**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
HOLLIS CASWELL AND DOROTHY D. CASWELL : DECISION  
for Redetermination of a Deficiency or for :  
Refund of Personal Income Taxes under :  
Article 22 of the Tax Law for the Years :  
1967 and 1968. :  
:

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Petitioners, Hollis Caswell and Dorothy D. Caswell, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law. (File No. 8-13156726). A formal hearing was held at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on May 22, 1974, at 2:00 P.M. before Nigel G. Wright, Hearing Officer. The petitioner, Hollis Caswell appeared in person and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Did petitioners, Hollis Caswell and Dorothy D. Caswell reside in New York State in 1967 and 1968?

FINDINGS OF FACT

1. On April 12, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Hollis Caswell and Dorothy D. Caswell, imposing New York State personal income tax on all income received by them in the years 1967 and 1968, on

the grounds that they did not change their domicile during said years and, therefore, remained resident individuals of New York State. In accordance with the aforesaid Statement of Audit Changes, the Bureau issued a Notice of Deficiency in the sum of \$4,525.17.

2. Petitioner, Hollis Caswell, was an engineer and worked for International Business Machines Corporation from 1957 to 1974, including the years 1967 and 1968. From June 13, 1967, to June 18, 1968, he attended the Massachusetts Institute of Technology on a Sloan Fellowship.

3. During the period of the Fellowship, petitioners rented their home in Mt. Kisco, New York, and became lessees at a house in Needham, Massachusetts. Both leases had the same duration of one year beginning June, 1967. Petitioners returned to New York in June, 1968. Petitioners' house in New York was leased two-thirds furnished with petitioners' furniture.

4. Petitioner, Hollis Caswell, maintained a bank account in New York during the period in question. His car was registered in New York during said period. He did not register to vote in Massachusetts.

5. When petitioners moved to Massachusetts, they intended to move again after one year to New York, Virginia or Vermont.

6. Petitioners spent more than 30 days in New York State in 1967 and 1968.

CONCLUSIONS OF LAW

A.. That petitioners, Hollis Caswell and Dorothy D. Caswell, did not abandon their domicile in New York State during the period from June, 1967 to June, 1968.

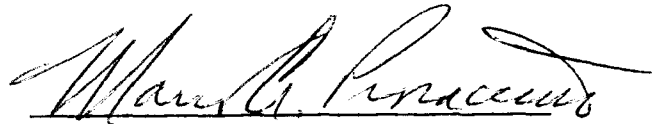
B. That petitioner, Hollis Caswell, by his own admission, did not expect to remain in Massachusetts and therefore did not acquire a new domicile there. This being so, he must be deemed to have retained his domicile in New York State.

C. That, since petitioners were domiciled in and spent more than 30 days in New York State during 1967 and 1968, they were resident individuals of New York in accordance with the meaning and intent of section 605(a)(1) of the Tax Law.

D. That the petition of Hollis Caswell and Dorothy D. Caswell is denied and the Notice of Deficiency issued on April 12, 1971, is sustained.

DATED: Albany, New York  
August 20, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER