

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LAWRENCE E. OATMAN

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 10th day of January, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Lawrence E. Oatman

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

wrapper addressed as follows:

Mr. Lawrence E. Oatman
c/o Wallace M. Germain, P.C.
89-27 37th Avenue

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 January, 1974.

Joseph S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LAWRENCE E. OATMAN

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

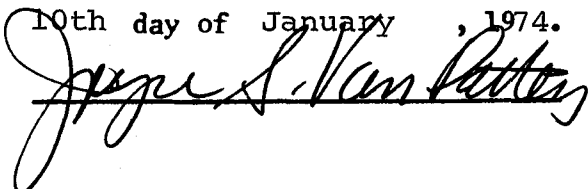
State of New York
County of Albany


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 10th day of January, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Wallace M. Germain, P.C. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Wallace M. Germain, P.C.
89-27 37th Avenue
Jackson Heights, New York 11372
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 January, 1974.







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,
~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
January 10, 1974

Mr. Lawrence E. Oatman
87-15 37th Avenue
Jackson Heights, New York 11372

Dear Mr. Oatman:

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

In the Matter of the Petition	:	
of	:	
LAWRENCE E. OATMAN	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for the	:	
Year 1967.	:	

Lawrence E. Oatman filed a petition under section 689 of the Tax Law for the redetermination of deficiency issued March 30, 1970, in the amount of \$1,176.46 plus interest of \$138.19 and a penalty for failure to file a return of \$294.11 for a total of \$1,608.76 for personal income tax under Article 22 of the Tax Law for the year 1967.

A hearing was duly held on February 5, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Saul Heckelman, Esq., appearing by James Scott, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether the petitioner changed his domicile from New York when he worked on board a ship.

FINDINGS OF FACT

1. Prior to 1967, petitioner resided at 87-15 37th Avenue, Jackson Heights, Queens, New York, with his wife and 22-year-old

son. He was a domiciliary of New York at that time.

2. Petitioner is in the merchant marine and works regularly as a radio operator and assistant radio operator. In 1966 and 1967 he was employed by American Export Isbrandtsen Lines, Inc. The home port of its ships is Wilmington, Delaware. Petitioner was assigned to the S.S. Constitution which sailed to and from New York City.

3. In 1967 a typical voyage of the S.S. Constitution would be three weeks and typically there was only a one-night layover before the next voyage. (Prior to 1967 there was typically a three-day layover). The ship made 17 trips in 1967. Petitioner was on shore for extended periods from January 3 to 19, 1967, and from November 27 to December 20, 1967. He was on the ship's payroll at this time.

4. During 1967 petitioner's wife and son kept the apartment in Jackson Heights and petitioner supported them. He was not legally separated from them. Prior to 1967, petitioner could spend more time there but in 1967 his time there was necessarily limited.

5. Petitioner claims no domicile in any other legal jurisdiction than New York. Petitioner has not shown that he spent less than 31 days in New York in 1967.

CONCLUSIONS OF LAW

A person is deemed to have a domicile at all time and cannot abandon one domicile without commencing a new domicile. Petitioner's failure to show or even claim a domicile other

than New York is fatal to his claims. In any event domicile cannot generally be claimed on a ship which is constantly moving about (Restatement Conflict of Laws Sec. 16 comment c.; Petition of Starer, S.T.C. July 9, 1971). For similar reasons a person cannot claim a permanent place of abode on board a ship which is constantly moving about.

The deficiency is correct and is due together with such further interest as may be computed under section 684 of the Tax Law.

DATED: Albany, New York
January 10, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER