

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  
DEE BREDIN THIBAUT

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) 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 3rd day of May , 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Dee Bredin

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

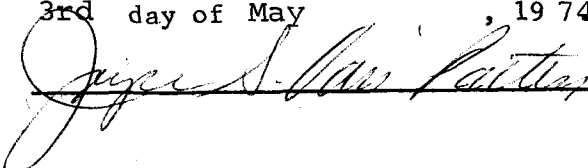
wrapper addressed as follows: Mrs. Dee Bredin Thibault  
389 South Lake Drive  
Palm Beach, Florida

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

3rd day of May , 1974

  
James S. Law

  
Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
DEE BREDIN THIBAUT

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) 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 3rd day of May, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon William S. Busch, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: William S. Busch, Esq. Cadwalader, Wickersham & Taft, Esqs. One Wall 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

3rd day of May, 1974.

*James A. Van Patten*

*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  
~~MILTON KOERNER~~, PRESIDENT  
Mario A. Procaccino  
A. BRUCE MANLEY  
MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York

**May 3, 1974**

**Mrs. Dee Bredin Thibault  
389 South Lake Drive  
Palm Beach, Florida**

**Dear Mrs. Thibault:**

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,

**Nigel G. Wright**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
	:	
of	:	
	:	
DEE BREDIN THIBAUT	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1968.	:	
	:	
	:	

---

Dee Bredin Thibault, filed a petition under section 689 of the Tax Law for a refund and for the redetermination of a deficiency issued under date of July 27, 1970 in the amount of \$1,143.55, plus interest of \$88.02 for a total of \$1,231.57 for personal income tax under Article 22 of the Tax Law for the year 1968.

A hearing was duly held on October 16, 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 William S. Busch, Esq., of Cadwalader, Wickersham & Taft. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Solomon Sies, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether the petitioner changed her domicile from New York to Florida at some time in 1968.

FINDINGS OF FACT

1. Prior to 1968 petitioner and her husband were domiciliaries and residents of New York. Petitioner is the widow of Mr. Mott, a former executive of General Motors. In 1929, Mr. Mott had left her a trust fund of General Motors stock and a very substantial income therefrom. All of said income for 1968 accrued to her on or before November 14, 1968. Petitioner married Conrad W. Thibault in 1932. Mr. Thibault had been at one time, a well-known opera singer. He has taught at the Manhattan School of Music, has been a Director of the Julliard School of Music and has managed a summer theater in East Hampton, New York. His current income is very low by any standard. Both petitioner and her husband had passed 65 years of age in 1968.

2. From about 1962, petitioner would spend about seven months of the year in Florida. In 1966 she purchased a five-room cooperative apartment at 389 South Lake Drive, Palm Beach, Florida. Final payment was made in April, 1968. She registered her car in Florida prior to 1968. In early 1968, petitioner acquired a bank account and safe deposit box in Palm Beach. In October, 1968, she paid Florida personal property taxes assessed on February 16, 1968 on the value of her personal effects in the apartment (her jewelry was in a safe deposit box and she did not declare that).

3. Petitioner had an apartment in "Manhattan House", 200 East 66th Street, under a three-year lease from October, 1966. This is furnished with furniture from the time of her previous

marriage. Her husband still lived there in 1973 and worked in New York.

4. Petitioner also owned an estate of about two acres at 43 Dunenere Lane, East Hampton, Suffolk County. She listed this property for sale in the spring of 1968 and sold this property in 1969 at a loss.

5. In 1967 petitioner and her husband had had arguments over their very high expenditures in maintaining their several properties and had talked of a separation. No formal steps toward a separation were, however, ever made.

6. In 1968 petitioner had been in Florida until June, when she returned to New York, partly to try to sell the house. She stayed in New York until November. She voted in New York on November 5, 1968. She states she went to Florida two days after the election and on November 7 stayed there the rest of 1968. There is, however, no objective evidence in the record as to this statement.

7. On January 9, 1969, she filed a Florida Declaration of Domicile stating that she had been domiciled in Palm Beach from June 15, 1968. On January 16, 1969, her husband filed a similar declaration stating that he had been domiciled in Palm Beach from December 1, 1968. In May, 1969 petitioner executed a will stating her residence to be in Florida.

In 1969 petitioner was a patient in Columbia Presbyterian Hospital in New York City. She chose the hospital because of the

national reputation of her doctor.

8. Petitioner, through her attorneys, paid 1968 New York estimated taxes to cover the entire calendar year. However, her return was prepared on the basis that she had become domiciled in Florida on June 15, 1968, and declared as New York income only about one half of her investment income. This resulted in a claimed overpayment of tax of \$18,141.33. The deficiency in issue finds that petitioner was a New York domiciliary for the entire year and finds additional tax due of \$1,143.55.

CONCLUSIONS OF LAW

Petitioner makes the interesting argument that a wife can and should be able to have a domicile separate from her husband particularly where there has been some marital discord and where she provides the financial support for the family. However, this argument is not important in this case. A change of domicile, particularly where there are several homes, must be accompanied by a clear-cut change in living habits so as to objectively and contemporaneously manifest an intent to abandon the old domicile and adopt a new one. In this case petitioner's activities, even considered alone, do not show such a change. Her whereabouts and trips in the vital last part of 1968 are not so clearly established as to show a change of domicile prior to November 14, 1968. Any change thereafter would be irrelevant since all her income accrued on or before that date.



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

DATED: Albany, New York  
May 3, 1974

STATE TAX COMMISSION

COMMISSIONER

COMMISSIONER

COMMISSIONER