

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
OWENS J. BINNETTE and
GERALDINE H. BINNETTE
For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(xx)~~ 22 of the
Tax Law for the Year ~~(xx)~~ 1970.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

JANET MACK, 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 December, 1975, she served the within
Notice of Decision ~~(or Redetermination)~~ by (certified) mail upon Owens J. Binnette
and Geraldine H. Binnette ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. and Mrs. Owens J. Binnette
482 Hammermill Road
Crene Coeur, Missouri 63141
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 ~~xx representative~~
~~xx~~ 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 December, 1975

Mary Groff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) 457-3336

DATED: Albany, New York
December 3, 1975

Mr. and Mrs. Owens J. Binnette
482 Hammermill Road
Crene Coeur, Missouri 63141

Dear Mr. and Mrs. Binnette:

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

Please take further notice that pursuant to
Section ~~690~~ 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

HEARING OFFICER

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
OWENS J. BINNETTE and GERALDINE H. BINNETTE : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year 1970.:
:

Petitioners, Owens J. Binnette and Geraldine H. Binnette,
482 Hammermill Road, Crene Coeur, Missouri, 63141, petitioned for
a redetermination of deficiencies in personal income taxes under
Article 22 of the Tax Law for the year 1970.

The case was submitted for decision on information contained
in the files.

ISSUE

Whether reimbursed moving expenses constitute New York income
for petitioners, Owens J. Binnette and Geraldine H. Binnette?

FINDINGS OF FACT

1. Petitioners, Owens J. Binnette and Geraldine H. Binnette,
timely filed New York State income tax returns for the year 1970.

2. A Notice of Determination of deficiencies in personal income taxes for the year 1970 was issued on March 26, 1973, against the taxpayers under File No. 053081161. The determination was revised by letter dated November 9, 1973.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. During the year 1970, petitioners were not New York residents. Petitioners resided in Missouri for the first part of the year. In July, 1970, petitioners moved to 25 Spencer Lane, Warren Township, New Jersey. Petitioner, Owens J. Binnette, was employed by General Cable Corporation, New York, New York, and took up residence in New Jersey in conjunction with his New York City employment.

5. Petitioner's residence change to New Jersey was a result of his New York employment and General Cable Corporation reimbursed him for moving expenses incurred as a result of the move to New Jersey from Missouri in 1970.

CONCLUSIONS OF LAW

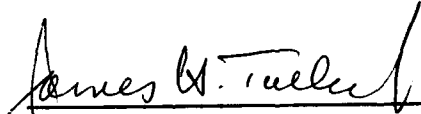
A. The moving expenses that Owens J. Binnette's New York employer paid in conjunction with his New York City employment constituted New York income within the meaning and intent of section 632(b)(1)(B) of the Tax Law.

B. The petition is denied and the determination of the deficiency in income tax is sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

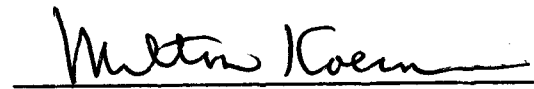
DATED: Albany, New York
December 1, 1975

STATE TAX COMMISSION



PRESIDENT

COMMISSIONER



COMMISSIONER