

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

EUGENE A. & GLADYS E. HARDIN

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 ~~(ss)~~ 22 of the  
Tax Law for the Year ~~(s)~~ 1965.

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 16th day of December , 1975, she served the within Notice of Decision ~~(or Determination)~~ by (certified) mail upon Eugene A. & Gladys E. Hardin ~~(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. Eugene A. Hardin  
9 Kensington Terrace  
Bronxville, 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)~~ ~~(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

16th day of December , 1975.

Mary Groff

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

STATE TAX COMMISSION

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

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER  
(518) ~~323236~~  
**457-3850**

**DATED:** Albany, New York  
**December 16, 1975**

**Mr. and Mrs. Eugene A. Hardin**  
**9 Kensington Terrace**  
**Bronxville, New York**

**Dear Mr. and Mrs. Hardin:**

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: ~~Petitioners, Representatives~~  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
EUGENE A. & GLADYS E. HARDIN : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for :  
the Year 1965.

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Eugene A. and Gladys E. Hardin, Nine Kensington Terrace, Bronxville, New York, filed a petition for a redetermination of a deficiency issued under date of November 27, 1967, in the amount of \$794.96 plus interest of \$77.09 for a total of \$872.05 in personal income tax under Article 22 of the Tax Law for the year 1965.

A hearing was duly held on October 15, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was not represented. 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 the resident status of petitioners.

FINDINGS OF FACT

1. Both petitioners were born and were raised in Kansas. They still have a family farm in Chapman, Kansas.

2. Mr. Hardin is a civil engineer working in the area of sanitation and water supply. Prior to 1951, he worked for various firms in Kansas City; Detroit, Michigan; Chicago, Illinois and Philadelphia, Pennsylvania. Since April, 1951, he has been a chief engineer for Parsons, Brinckerhoff, Quade & Douglas, Inc., whose principal office is in New York City and with its affiliated firms in other cities.

3. From April, 1951 to April, 1953, Mr. Hardin and his wife resided in the Philadelphia area although for most of that time Mr. Hardin commuted weekly to New York City to work.

4. In April, 1953, petitioners purchased and moved into a garden apartment at Nine Kensington Terrace, Bronxville, New York. In later years this apartment was rented to others during some of the time that petitioners were not there although the periods of such rentals are not clear from the record.

5. From April, 1953 to August, 1959, Mr. Hardin worked at various locations including New York City; Paris, France; Texas; Michigan and Louisiana. Mrs. Hardin stayed at the Bronxville apartment during this time. Mr. Hardin lived at locations near his work assignments but was in Bronxville occasionally. Both Mr. and Mrs. Hardin voted in Bronxville in these years.

6. From August, 1959 to July, 1963, petitioners resided in Baton Rouge, Louisiana. Mr. Hardin was working there. Both Mr. and Mrs. Hardin voted in Louisiana during these years. In July, 1963, Mr. Hardin resided in a Brooklyn, New York hotel while his wife was at a family farm in Chapman, Kansas.

7. In August, 1963, both Mr. and Mrs. Hardin went to Okinawa where Mr. Hardin worked until December.

8. In December, 1963, the Hardins moved to New York City where they stayed in hotels until April, 1964 when they moved into their Bronxville apartment.

9. From April, 1964, Mrs. Hardin stayed in Bronxville though occasionally going elsewhere until June, 1966. She did go to Swarthmore, Pennsylvania, in December, 1964 and December, 1965, for vacations, spent some time in Florida, Kansas and Michigan visiting with relatives and a few months in Buenos Aires and in Okinawa visiting her husband who was there at the time.

During this time, Mr. Hardin worked in San Francisco for one month, Okinawa for a period of two weeks and then for a period of a few months and in Buenos Aires for one week. Otherwise he worked in New York City. He did accompany his wife on her trips to Swarthmore, Pennsylvania and to Florida. Also during this time, Mr. and Mrs. Hardin listed their apartment for rental

in May, 1965, prepared it for rental in December, 1965, and actually rented in July, 1966. They were both staying at the apartment at such times.

10. After July, 1966, the Hardins moved to various locations but returned to the Bronxville apartment for most of 1968 and after several more trips elsewhere returned again and lived there from 1970 through 1973.


CONCLUSIONS OF LAW

The Hardins were domiciled in New York prior to 1959. They had a home here and the main office of Mr. Hardin's employer was here. The move in 1959 to Louisiana was not a change of domicile in view of Mr. Hardin's occupation and his history of assignments to various locations for relatively short lengths of time. The family farm in Kansas cannot be considered a domicile in absence of evidence as to the ownership of that property and in view of the very short periods of time petitioners were there. Since no change of domicile from New York has been shown, petitioners remained domiciled in New York State throughout 1965, the year here in question.

The deficiency in issue is found to be correct and is due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
December 16, 1975

STATE TAX COMMISSION

  
James A. Miller  
PRESIDENT

Milton Koenig  
COMMISSIONER

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COMMISSIONER