

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ANTHONY E. McFARLANE

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 ~~(x)~~ 22 of the
Tax Law for the Year(s) 1971 and 1972.:

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 30th day of May, 1975, she served the within

Notice of Decision ~~(xx) Determination~~ by (certified) mail upon ANTHONY E. McFARLANE

~~(representative of)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. Anthony E. McFarlane ABH-2
V-3 Division USS Midway (CVA-41)
FPO San Francisco, California 96601

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

30th day of May, 1975.

Joseph S. Van Patten

Janet Mack

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ANTHONY E. McFARLANE :
for Redetermination of a Deficiency : DECISION
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Years 1971 and 1972. :
:

Petitioner, Anthony E. McFarlane, ABH-2, V-3 Division USS Midway (CVA-41), FPO San Francisco, California 96601, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1971 and 1972.

The case was submitted for decision on information contained in the file and referred to L. Robert Leisner, Hearing Officer. The taxpayer acted on his own behalf and the case was submitted on the record of the Income Tax Bureau.

ISSUE

Did the taxpayer, a serviceman, by virtue of living in bachelor enlisted quarters during the years in question maintain a permanent place of abode outside the State of New York?

FINDINGS OF FACT

1. Petitioner, Anthony E. McFarlane, timely filed New York

State income tax returns for the years 1971 and 1972.

2. A Notice of Denial of refund claims for personal income taxes for the years 1971 and 1972 was issued June 24, 1974, to the taxpayer under File No. 2-13178783.

3. The taxpayer petitioned for redetermination of the claim denial.

4. During 1971 and 1972, taxpayer was assigned to government quarters at the Naval Air Station, Meridian, Mississippi. He lived in Room 38, B.E.Q. 204, for which quarters he did not pay any rent. Taxpayer contends that because he lived in government quarters, he waived reimbursement of basic allowance for quarters, ranging from \$105.00 to \$138.60, which he contends is the equivalent of having to rent or maintain an apartment on his own.

CONCLUSIONS OF LAW

A. The taxpayer living in Room 38, B.E.Q. 204, at the Naval Air Station, Meridian, Mississippi, did not maintain a permanent place of abode outside the State of New York during the years in question. Under these circumstances, the taxpayer cannot claim that he was a nonresident of New York State. His income is subject to New York State income tax for the years in question and refund claim is denied, under section 605 of the Tax Law.

DATED: Albany, New York
May 30, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER