

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT U. OSSORIO

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~REGISTERED~~ MAIL

For a Redetermination of a Deficiency or
a Refund of **Personal Income**
Taxes under Article ~~(s)~~ 16 of the
Tax Law for the Year ~~(s)~~ 1959

State of New York
County of Albany

Katherine D. Manly, 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 January, 1975, she served the within
Notice of ~~Redetermination~~ Determination) by ~~(registered)~~ mail upon Robert U.

Ossorio ~~(represented by)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Robert U. Ossorio
15 West 10 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~~
~~xxx~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~representative~~ petitioner.

Sworn to before me this

30th day of January, 1975.

Janet Mack

Katherine D. Manly

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ROBERT U. OSSORIO

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)~~ 16 of the
Tax Law for the Year ~~(s)~~ 1959.

State of New York
County of Albany

Katherine D. Manly, 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 January, 1975, she served the within

Notice of ~~Decision~~ (for Determination) by ~~certified~~ mail upon Mark Rosenbaum, Esq.
Webster, Sheffield,

Fleischman, Hitchcock & Brookfield

(representative of) the petitioner in the within

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

Mark Rosenbaum, Esq.

wrapper addressed as follows: Webster, Sheffield, Fleischman, Hitchcock
& Brookfield

One Rockefeller Plaza

New York, New York 10020

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 January, 1975.

Katherine D. Manly

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ROBERT U. OSSORIO

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) 16 of the :
Tax Law for the Year(s) 1959. :

State of New York
County of Albany

Katherine D. Manly, 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 January, 1975, she served the within
John D. Smyers, Esq.
Notice of ~~Decision~~ (Redetermination) by ~~Certified~~ mail upon Webster, Sheffield,
Fleischman, Hitchcock & Brookfield (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
John D. Smyers, Esq.
wrapper addressed as follows: Webster, Sheffield, Fleischman, Hitchcock &
One Rockefeller Plaza Brookfield
New York, New York 10020

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 January, 1975.

Janet Mack

Katherine D. Manly



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
January 30, 1975

Mr. Robert U. Ossorio
15 West 10 Street
New York, New York

Dear Mr. Ossorio,

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

Please take further notice that pursuant to
Section (g) **375** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **ninety days**
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

AD-1.12 (8/73)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ROBERT U. OSSORIO	:	DETERMINATION
for Revision or Refund of Personal Income	:	
Taxes under Article 16 of the Tax Law for	:	
the Year 1959.	:	

Robert U. Ossorio filed an application under section 374 of the Tax Law for revision of an additional assessment dated January 28, 1966, in the amount of \$7,354.99 for personal income tax under Article 16 of the Tax Law for the year 1959.

Such application was denied and applicant filed a demand for a hearing. A hearing was duly held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on March 9, 1972, before Nigel G. Wright, Hearing Officer.

Applicant was represented by John D. Smyers, Esq., and Mark Rosenbaum, Esq., of Webster, Sheffield, Fleishman, Hitchcok & Brookfield. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is the resident status of Mr. Ossorio during 1959.

FINDINGS OF FACT

1. Mr. Ossorio was born in 1923. He has never married.
2. Mr. Ossorio spent less than 30 days in New York in 1959.
3. Mr. Ossorio owned a small house at 12 MacDougal Alley, New York City, during 1959. This, however, was leased out to tenants from July 1, 1958 through November 30, 1959, and again from January 4, 1960 through October 1961.

4. Mr. Ossorio owned a house in Palm Springs, California. He had purchased this in 1947 partly because the climate of the West Coast was better for his health. One of his brothers and his mother stayed in the house winters and contributed to expenses. Mr. Ossorio, however, kept personal effects there and made visits there at least to see his mother and brother in almost every year from 1952 through 1965, when he sold it.


5. Mr. Ossorio's father lived in Greenwich, Connecticut, and had done so since 1935. This had been Mr. Ossorio's sole residence in the 1930's and 1940's. He has continued to visit there frequently and had close ties with his father.

DETERMINATION


Mr. Ossorio was not a resident of New York in 1959. In this case, it is clear that even if Mr. Ossorio was domiciled in New York in 1959, he still qualified as a nonresident. The house in California must be considered a permanent place of abode considering the purposes of the statute.

DATED: Albany, New York
January 30, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER