

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEAN PIERRE STERN and
MARIE LUCIE STERN

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)~~ 1967

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

State of New York
County of Albany

JANET MACK

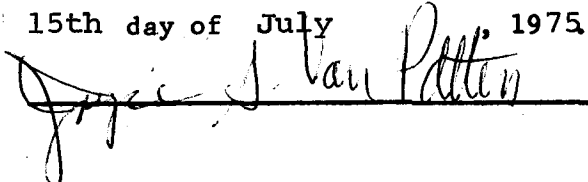
, being duly sworn, deposes and says that

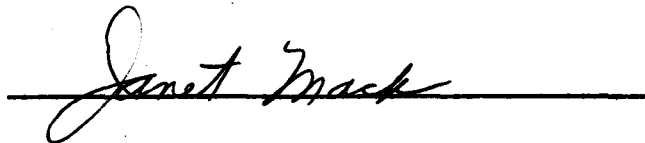
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 15th day of July, 1975, she served the within
Notice of Decision (~~on Determination~~) by (certified) mail upon Jean Pierre Stern
and Marie Lucie Stern (~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. Jean Pierre Stern
Khakum Wood
Greenwich, Connecticut 06830
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

15th day of July, 1975





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEAN PIERRE STERN and
MARIE LUCIE STERN

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article (8) 22 of the
Tax Law for the Year (8) 1967

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 15th day of July , 1975 , she served the within

Notice of Decision (~~or Determination~~) by (certified) mail upon Kenneth Carroad, Esq.

(representative of) the petitioner in the within

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

wrapper addressed as follows: Kenneth Carroad, Esq.

40 Worth Street

New York, New York 10013

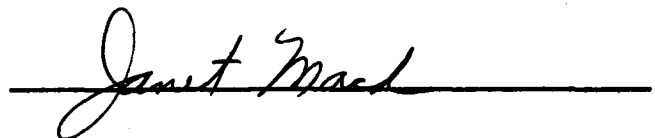
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

15th day of July , 1975.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
JAMES H. TULLY, JR.
~~MEMBER OF THE COMMISSION~~ 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
July 15, 1975

Mr. & Mrs. Jean Pierre Stern
Khakum Wood
Greenwich, Connecticut 06830

Dear Mr. & Mrs. Stern:

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

Please take further notice that pursuant to
Section (a) **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,


Paul B. Coburn
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 Petition	:	
of	:	
JEAN PIERRE STERN and	:	
MARIE LUCIE STERN	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1967.	:	

Petitioners, Jean Pierre Stern and Marie Lucie Stern, residing at Khakum Wood, Greenwich, Connecticut, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1967. (File No. 73174615.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 17, 1974, at 1:15 P.M.; October 3, 1975, at 9:15 A.M. and February 27, 1975, at 1:15 P.M. Petitioners appeared by Kenneth Carroad, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq. and James A. Scott, Esq. of counsel).

ISSUE

Was petitioner, Jean Pierre Stern, a resident individual of New York State during the year 1967?

FINDINGS OF FACT

1. Petitioners, Jean Pierre Stern and Marie Lucie Stern, filed a New York State income tax nonresident return for the year 1967.

2. On May 22, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Jean Pierre Stern and Marie Lucie Stern, imposing additional personal income tax for the year 1967 in the sum of \$5,295.66 upon the grounds that they were statutory residents of New York State for the year 1967. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$6,599.19.

3. Petitioners, Jean Pierre Stern and Marie Lucie Stern, were domiciled in the State of Connecticut during the year 1967. They resided in a home located at Khakum Wood, Greenwich, Connecticut.

4. On March 15, 1965, Maurice Pascal Stern, the son of petitioner, Jean Pierre Stern, executed an agreement of lease as tenant with 945 Fifth Avenue, Inc. as landlord leasing Apartment 11-E in premises 945 Fifth Avenue, New York, New York, for a term of three years commencing October 1, 1965, at a rental of \$330.00 per month for the first two years and \$335.00 a month for the third year. On March 29, 1965, petitioner, Jean Pierre Stern, executed a written guaranty of his son's obligations under said lease. He listed his Connecticut address as his residence on said guaranty. During the term of lease, petitioner, Jean Pierre Stern, received mail addressed to him at said premises. The telephone in said premises was listed in his name in the directory and the telephone charges were billed to him. He paid the rent and utility bills for said apartment. During the term of the lease his son spent most of his time outside of the United States. The apartment

was primarily used by petitioners, Jean Pierre Stern and Marie Lucie Stern, during the year 1967.

5. Petitioner, Jean Pierre Stern, conceded at the formal hearing that he spent the following 178 days during the year 1967 in New York State:

1/3-1/6, 1/9-1/12, 1/16, 1/17, 1/19, 1/20, 1/23-1/27, 2/23, 2/24, 2/27, 2/28, 3/2, 3/3, 3/6-3/10, 3/13-3/16, 3/20, 3/21, 3/24, 4/3-4/7, 4/10-4/14, 4/17-4/22, 4/24-4/28, 5/1-5/5, 5/8-5/12, 5/15-5/19, 6/2, 6/5, 6/6, 6/12-6/14, 6/23, 6/26, 6/27, 6/30, 7/6, 7/7, 7/10-7/13, 7/17-7/21, 7/25-7/28, 7/31-8/2, 8/4, 8/8-8/12, 8/14-8/18, 8/21-8/25, 8/28-9/1, 9/5-9/8, 9/11, 9/12, 10/7, 10/9-10/13, 10/16-10/20, 10/23-10/27, 10/30-11/2, 11/6-11/9, 11/13-11/16, 11/20-11/22, 11/27-12/1, 12/4-12/6, 12/11-12/15, 12/18-12/22, 12/27-12/29.

6. Petitioner, Jean Pierre Stern, spent the following 49 days during the year 1967 traveling outside of the United States:

1/30-2/20, 3/27-4/2 and 9/14-10/3.

7. Petitioner, Jean Pierre Stern, failed to produce documentary or other substantial evidence to prove that of the remaining 138 days in the year 1967; he spent less than 6 of said days in New York State. The diaries submitted do not contain sufficient information to determine the number of said days he was outside of New York State.

CONCLUSIONS OF LAW

A. That petitioner, Jean Pierre Stern, was not domiciled in New York State during the year 1967, but he maintained a permanent place of abode in New York State at 945 Fifth Avenue during said year and spent in the aggregate more than 183 days in New York

State during said year and therefore he was a resident individual of New York State in accordance with the meaning and intent of section 605(a)(2) of the Tax Law and 20 NYCRR 102.2(e).

B. That the petition of Jean Pierre Stern and Marie Lucie Stern is denied and the Notice of Deficiency issued May 22, 1972, is sustained.

DATED: Albany, New York

July 15, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER