

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH KINGSBURY-SMITH &
EILEEN KINGSBURY-SMITH

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s)~~ 1966.

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

State of New York
County of Albany

MARYLOU SAMUELS

, 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 13th day of April, 1976, she served the within

Notice of Decision ~~(or Determination)~~ by ~~(certified)~~ mail upon Joseph Kingsbury-Smith

& Eileen Kingsbury-Smith ~~(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. Joseph Kingsbury-Smith
Via de Forragi 88-A
Rome, Italy

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)~~
~~(s)~~ 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

13th day of April, 1976.

Janet Mack

Marylou Samuels

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH KINGSBURY-SMITH
EILEEN KINGSBURY-SMITH

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s)~~ 1966.

State of New York
County of Albany

MARYLOU SAMUELS, 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 13th day of April, 1976, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Robert F. Morton

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Robert F. Morton, Esq.
723 Mountain View Drive
Lewiston, New York 14092

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

13th day of April, 1976.

Janet Mark

Marylou Samuels



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) 457-3850

DATED: Albany, New York
April 13, 1976

Mr. and Mrs. Joseph Kingsbury-Smith
Via de Forragi 88-A
Rome, Italy

Dear Mr. and Mrs. Kingsbury-Smith:

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,


Paul B. Coburn
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
JOSEPH KINGSBURY-SMITH & EILEEN KINGSBURY-SMITH	:	DECISION
for Redetermination of Deficiency or for Refund of Personal Income Tax under Article 22 of the Tax Law for the Year 1966.	:	

Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, presently residing at via de Forragi 88/A, Rome, Italy, petitioned for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1966. (File No. 69267895.)

A formal hearing was held on September 9, 1974, at 2:00 P.M. at the offices of the State Tax Commission, Buffalo, New York, before L. Robert Leisner, Hearing Officer. The taxpayers were represented by Robert F. Morton, Esq. and the Income Tax Bureau by Saul Heckelman, Esq., (James Scott, Esq. of counsel).

ISSUE

Were petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, residents of New York State for the entire year of 1966?

FINDINGS OF FACT

1. Petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, timely filed a New York State income tax resident return for income received for the period of January 1, 1966 to June 30 1966.

2. The Income Tax Bureau on February 24, 1969, issued a Statement of Audit Changes imposing an additional income tax due for 1966 on the grounds that petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, were New York State residents for the entire year. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$3,147.61.

3. Petitioner, Joseph Kingsbury-Smith, has been an employee of the Hearst Organization since 1927 when at the age of 19 years he was assigned to London, England. In 1931 he was transferred to Washington, D.C. where he remained until 1936 as a correspondent on foreign and domestic matters. In 1936 he was reassigned to London, England, where he became the European general manager of the International News Service, a part of the Hearst Organization. In 1955 he was transferred to New York, New York, on his appointment as publisher of the New York Journal-American. In May, 1966, he contracted with the Hearst Corporation to become the European Director and Vice-President of the Hearst Corporation and Chief Foreign Writer

for King Features Syndicate and The Hearst Newspapers, for a three-year period after which the contract was to remain in force on a month-to-month basis.

4. Petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, and their two daughters in June, 1966 gave up their rented quarters in New York, New York, and arrived in France on July 5, 1966, with all their household furniture fixtures and personal office equipment so that Joseph Kingsbury-Smith could assume his new position. They first resided in Chartrette, France, and later moved to Chatou, France. A French domicile permit was issued. In April, 1968, a certificate of residence and a Rome Police Headquarters Permit was issued to petitioner, Joseph Kingsbury-Smith for an indefinite stay in Italy.

5. Petitioner, Joseph Kingsbury-Smith, returns to New York State for several days each year to attend management meetings of the Hearst Corporation. He maintains an account in the National City Bank in New York, New York, to facilitate the transfer of funds and paychecks. He has had this account for over thirty years.

6. Pursuant to section 612 of the Tax Law, the adjusted gross income of petitioner, Joseph Kingsbury-Smith, for the year 1966 should be reduced \$9,863.00 which was the amount excluded by the Internal Revenue Service, pursuant to section 911 of the Internal Revenue Code, based upon the ratio of the number of qualifying days in the

year as to the total number of days in the year of his annual income. Thus the taxable income results in a deficiency of \$1,830.63 plus accumulated interest.

CONCLUSIONS OF LAW

A. That petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, were domiciled in New York State during 1966. They at no time effected a change of domicile to France.

B. That since petitioners, Joseph Kingsbury-Smith and Eileen Kingsbury-Smith, were domiciliaries of New York State during 1966 and spent more than 30 days in New York State during said year, therefore, they were resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law.

C. That the petition of Joseph Kingsbury-Smith and Eileen Kingsbury-Smith is granted to the extent of reducing income tax due for the year 1966 to \$1,830.63 together with such interest as may be lawfully due; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued on February 24, 1969; and, that except as so granted the petition is in all other respects denied.

DATED: Albany, New York
April 13, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER