

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CARLOS M. POLANCO, JR.

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Taxes :
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s)~~ 1969 and 1970 :

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 18th day of May, 1976, she served the within
Notice of Decision ~~(for Redetermination)~~ by (certified) mail upon Carlos M. Polanco, Jr.

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Carlos M. Polanco, Jr.
1148 East 211th Street
Bronx, New York 10469

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

18th day of May, 1976.

Janet Macch

Marylou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

May 18, 1976

Mr. Carlos M. Polanco, Jr.
1148 East 211th Street
Bronx, New York 10469

Dear Mr. Polanco :

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.

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. They
will be referred to the proper party for reply.

Very truly yours,

PAUL B. COBURN
Supervising Tax
Hearing Officer

Enc.

cc: ~~Enclosure~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CARLOS M. POLANCO, JR.	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Years 1969 and 1970.	:	

Petitioner, Carlos M. Polanco, Jr., 1148 East 211th Street, Bronx, New York 10469, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1969 and 1970.

The case was submitted for decision on information contained in the file.

ISSUE

Was petitioner, Carlos M. Polanco, Jr., a resident of New York State for income tax purposes during the years 1969 and 1970?

FINDINGS OF FACT

1. Petitioner, Carlos M. Polanco, Jr., timely filed a New York State income tax return for the year 1969. He did not file an income tax return for the year 1970.

2. A Notice of Determination of deficiencies in personal income taxes for the years 1969 and 1970 was issued on January 29, 1973, against the taxpayer under File No. 1-89980172.

3. The taxpayer petitioned for a redetermination of deficiencies.

4. Petitioner entered the service on March 13, 1968. At this time, petitioner was a resident of New York State.

5. From March 4, 1969 until March 25, 1970, petitioner, Carlos M. Polanco, Jr., was stationed at Fort Riley, Kansas; Fort Walters, Texas; and Fort Rucker, Alabama, during which time he received flight training. Throughout the duration of these assignments petitioner lived in off-base housing.

6. On May 1, 1970, petitioner, Carlos M. Polanco, Jr., arrived in Vietnam where he served until March 5, 1971 when he was wounded in action.

7. Petitioner, Carlos M. Polanco, Jr., returned to active duty in June, 1971 and was discharged on December 17, 1971.

8. Petitioner, Carlos M. Polanco, Jr., is presently residing at 1148 East 211th Street, Bronx, New York 10469.

9. The Income Tax Bureau estimated petitioner's income at \$5,000. The petitioner's W-2 form filed later indicates that his income was \$4,522.38.

CONCLUSIONS OF LAW

A. Petitioner, Carlos M. Polanco, Jr., was a domiciliary of the State of New York at the time he entered military service.

B. Petitioner did not maintain a permanent place of abode in New York State during the year 1969; he maintained a permanent place of abode outside the State and he did not spend thirty days in New York during that year.

C. Petitioner, Carlos M. Polanco, Jr., was not a resident of New York State for income tax purposes for the year 1969.

D. Petitioner, Carlos M. Polanco, Jr., did not maintain a permanent place of abode outside New York State for the entire year 1970.

E. Petitioner was a resident of New York State for income tax purposes during 1970. The tax on his estimated income is modified and reduced to \$97.81 tax on his actual income.

F. The deficiency as modified is sustained, and the taxpayer's petition is denied.

G. The deficiency shall be recomputed in accord with this decision; pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
May 18, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER