

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT & JOSEPHINE BACON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(x)~~ 22 of the  
Tax Law for the Year ~~(x) xxx Period(s)~~ 1971.:

State of New York  
County of Albany

Marsina Donnini, 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 24 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Robert and Josephine Bacon ~~(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. Robert Bacon  
10 Sandstone Court  
San Rafael, California 94903  
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~ ~~(xxx)~~ 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

24 day of August, 1977

Marsina Donnini

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT & JOSEPHINE BACON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of **Personal Income** :  
Taxes under Article ~~(x)~~ 22 of the :  
Tax Law for the Year ~~(xxxxxx)~~ 1971.:

State of New York  
County of Albany

Marsina Donnini, 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 24 day of August, 1977, she served the within  
Notice of Decision by (certified) mail upon Lt. Denise G. Howard

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Lt. Denise G. Howard  
U.S. Coast Guard Reserve  
Legal Assistance Officer  
Third Coast Guard District  
Governors Island

New York, New York 10004  
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative  
of the) 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

24 day of August, 1977

Marsina Donnini

Just Mack



STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

**August 24, 1977**

**Mr. & Mrs. Robert Bacon**  
**10 Sandstone Court**  
**San Rafael, California 94903**

**Dear Mr. & Mrs. Bacon:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section **(x) 690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywaty**  
**Hearing Examiner**

cc: Petitioner's Representative  
  
Taxing Bureau's Representative

## STATE TAX COMMISSION

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on January 24, 1977 at 9:15 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioners appeared by Lt. Denise G. Howard. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irving Atkins, Esq., of counsel).

## ISSUE

Whether the petitioners, Robert and Josephine Bacon, were residents of New York State during the year 1971.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Robert Bacon, has been a member of the United States Coast Guard since 1954.

2. During January, 1971, the petitioner, Robert Bacon, was stationed in Portsmouth, Virginia and was residing with his wife, Josephine Bacon, at an apartment, also located in Portsmouth, Virginia.

3. From February, 1971 through June, 1971, the petitioner, Robert Bacon, attended the Armed Forces Staff College, a military installation in Norfolk, Virginia. Although the petitioner, Robert Bacon, resided at government quarters in Norfolk, Virginia, his wife continued to reside at their apartment in Portsmouth, Virginia.

4. From July, 1971 through December, 1971, the petitioner, Robert Bacon, was stationed in the State of Massachusetts, and resided in a rented apartment outside military quarters in Stoneham, Massachusetts.

5. All orders that were issued to the petitioner, Robert Bacon, were considered by the United States Coast Guard as "permanent change of station orders."

6. During 1971, the petitioners did not come into, or maintain a place of abode in the State of New York. Petitioners were not physically present in New York at any time during the year 1971. They did maintain a permanent place of abode during the entire year of 1971, outside the State of New York. Therefore,

petitioners are nonresident individuals for the year 1971 within the meaning and intent of section 605(a)(1) of the Tax Law.

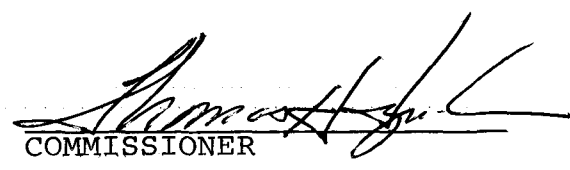
7. The petition of Robert and Josephine Bacon is granted and the Income Tax Bureau is directed to refund the sum of \$151.56 together with such interest as may be lawfully owing.

DATED: Albany, New York  
August 24, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER