

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CHANCEY, HUGH N. & GENEVIEVE

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(s) ~~xx~~ Period(s) :
1965, 1966, 1967, 1968 and 1969

State of New York
County of Albany

Violet Walker, 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 14th day of June, 1977, she served the within Notice of Decision by *Certified* ~~registered~~ mail upon Hugh N. & Genevieve Chancey ~~xx 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. Hugh Chancey
13 Leonard Drive
East Northport, New York 11731
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~~ ~~xx the~~) petitioner herein and that the address set forth on said wrapper is the last known address of the (~~representative of the~~ ~~xx the~~) petitioner.

Sworn to before me this

14th day of June, 1977.

Janet Mack

Violet Walker

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CHANCEY, HUGH N. & GENEVIEVE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (8) 22 of the :
Tax Law for the Year(s) ~~1965, 1966, 1967, 1968 and 1969~~ :
1965, 1966, 1967, 1968 and 1969

State of New York
County of Albany

Violet Walker, 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 14th day of June, 1977, she served the within

Notice of Decision by *Certified* ~~(registered)~~ mail upon William F. Fallon
and Kathleen Daniels, Esqs.
(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: William F. Fallon and Kathleen Daniels, Esqs.

Kirlin, Campbell & Keating
120 Broadway

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 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

14th day of June, 1977

Janet Mack

Violet Walker



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

June 14, 1977

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) 457-1723

Mr. and Mrs. Hugh Chancey
13 Leonard Drive
East Northport, New York 11731

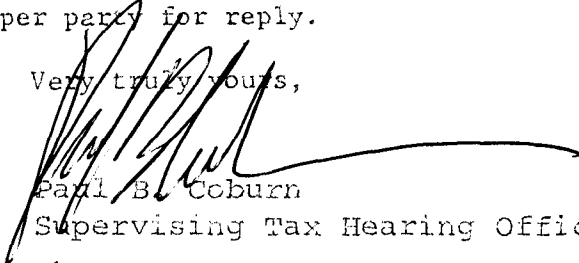
Dear Mr. and Mrs. Chancey:

Please take notice of the Notice of 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: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
HUGH H. CHANCEY and GENEVIEVE CHANCEY
for Redetermination of a Deficiency or
for Refund of Personal Income Taxes
under Article 22 of the Tax Law for the
Years 1965, 1966, 1967, 1968 and 1969.

DECISION

Hugh H. Chancey and Genevieve Chancey, residing at
13 Leonard Drive, East Northport, New York 11731, filed a
petition for redetermination of a deficiency or for refund
of personal income taxes under Article 22 of the Tax Law for
the years 1965 through 1969. (File No. 01042).

A formal hearing was held at the offices of the State Tax
Commission, Two World Trade Center, New York, New York, on
October 19, 1976, at 9:15 A.M., before Solomon Sies, Hearing
Officer. The petitioners appeared by William F. Fallon, Esq.,
and Kathleen Daniels, Esq. The Income Tax Bureau appeared by
Peter Crotty, Esq., (Harris Sitrin, Esq. of counsel).

ISSUE

Whether the petitioners were New York residents, for income
tax purposes, during the years in issue. Determinative of the

issue is whether or not the petitioners effected a change of domicile from New York to Illinois on February 20, 1965.

FINDINGS OF FACT

1. The petitioners, Hugh H. Chancey and Genevieve Chancey, filed a 1965 New York State resident return for the period from January 1, 1965 to February 19, 1965. They also filed a 1969 New York State resident return for the period from January 19, 1969 to December 31, 1969, on which they claimed a refund of \$175.00. The petitioners did not file any returns for the years 1966 through 1968.

2. On June 28, 1971, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners for the years 1965 through 1969 in the amount of \$3,514.11, including a delinquency penalty of 25% for the years 1966, 1967 and 1968. Accordingly, it issued a Notice of Deficiency therefor on the ground that the petitioners were considered to be New York residents, and taxable on their income from all sources.

3. Prior to February 19, 1965, the petitioners were domiciliaries of the State of New York.

4. Prior to 1965, the petitioners lived in East Northport, New York, in a home owned by petitioner, Hugh H. Chancey and his mother, as tenants in common. They have lived in that house

since 1948. The petitioners raised their two children in that home. Mr. Chancey's mother also lived with the petitioners.

5. In early February, 1965, the petitioner, Hugh H. Chancey, was elected to a four-year term as general chairman and executive vice-president of Sleeping Car Conductors for the Order of Railway Conductors and Brakemen, Pullman System, whose headquarters are located in Chicago. Prior to that time, Mr. Chancey was a member of Local 709 of the Order of Railway Conductors and Brakemen, Pullman System, covering conductors out of the Penn terminal district in New York State.

6. On February 19, 1965, the petitioners moved to Chicago, Illinois, and took with them their possessions and furniture so that Mr. Chancey could assume his position as an officer of the railroad union. At that time the petitioners' children were married and had homes of their own. While in Chicago, Illinois, the petitioners lived in three rented apartments. Mr. Chancey purchased a car in Chicago and obtained an Illinois driver's license. Mr. Chancey voted from Chicago in 1966, 1967 and 1968. He re-registered to vote from East Northport, New York in 1969.

7. While in Chicago, Illinois, the home in East Northport, New York was occupied by Mr. Chancey's mother until November 28, 1968, when she died. Mr. Chancey paid the real estate taxes on

the house during the years in issue and took the deduction on his income tax return. He also paid for the insurance premiums and for repairs to the house. There was a telephone in the house listed in the name of the petitioner, Hugh H. Chancey, who paid the telephone bills. The listing was continued while the petitioners resided in Chicago, Illinois. Mr. Chancey continued to maintain his New York State driver's license during the years in issue. Mr. Chancey maintained a savings bank account in New York and a safe deposit box in the Security National Bank in New York, while in Chicago.

8. After the death of his mother in 1968, Mr. Chancey became the sole owner of the house in East Northport, New York.

9. The petitioners did not spend more than 30 days during each of the years 1966, 1967 and 1968 in New York State.

10. The Pullman Company discontinued its operations at the end of 1968. As a result, Mr. Chancey could no longer be employed by the union. Mr. & Mrs. Chancey removed their possessions and furnishings to the home in East Northport, New York, on January 19, 1969. Mr. Chancey has been employed as manager of labor relations for the Long Island Railroad in New York since January 20, 1969.

11. Mr. Chancey's removal to Chicago, Illinois, as an executive officer for the union was for a fixed period of time,

namely four years, and at the conclusion of that period he returned to his home in East Northport, New York.

CONCLUSIONS OF LAW

A. That the petitioners continued to be and remained domiciliaries of the State of New York while residing in Chicago, Illinois.

B. That the petitioners maintained a permanent place of abode within the State of New York during the years 1965 through 1969.

C. That the petitioners did not maintain a permanent place of abode in Chicago, Illinois, from February 20, 1965 to January 18, 1969, since Mr. Chancey went there for a specific purpose and for a fixed period of time, i.e., a four-year term as a union executive.

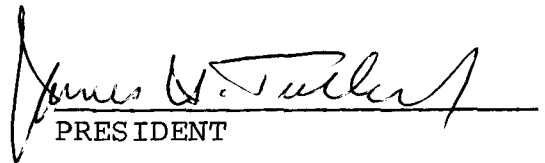
D. That the petitioners were residents of the State of New York during the years 1965 through 1969 in accordance with the provisions of section 605(a) of the Tax Law, and their income from all sources during said years was taxable to New York.

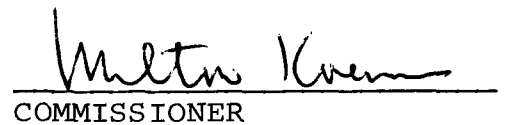
E. That the petitioners' failure to file returns was due to reasonable cause and therefore, the penalty under section 685(a) be and the same is hereby cancelled.

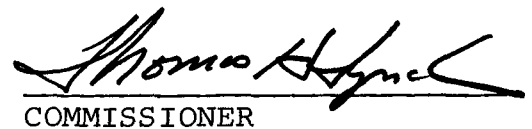
F. That the petition of Hugh H. Chancey and Genevieve Chancey, except as modified in accordance with Conclusion E, supra, be and the same is in all other respects denied.

DATED: Albany, New York
June 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER