

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

IVOR B., JR. and MARY CLARK

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) ~~or Period(s)~~ 1970.:

AFFIDAVIT OF MAILING

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 17th day of June, 1977, she served the within Notice of Decision by (certified) mail upon Ivor B., Jr. & Mary Clark (~~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. Ivor B. Clark, Jr.  
2300 West Loop South  
Houston, Texas 77027

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

17th day of June, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

IVOR B., JR. and MARY CLARK

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)xxx Period(x)~~ 1970.: :

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 17th day of June, 1977, she served the within  
Notice of Decision by (certified) mail upon William V. H. Clarke

(representative of) the petitioner in the within proceeding,

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

William V. H. Clarke, CPA  
Peat, Marwick, Mitchell & Co.  
4300 One Shell Plaza  
Houston, Texas 77002

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

17th day of June, 1977.

Marsina Donnini

Janet Muck



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 17, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. Ivor B. Clark, Jr.  
2300 West Loop South  
Houston, Texas 77027

Dear Mr. & Mrs. Clark:

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

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

*Frank J. Puccia*  
**Frank J. Puccia**

Enc.

**Supervisor of  
Small Claims Hearings**

cc: Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
IVOR B., JR. and MARY CLARK : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Year 1970.

Petitioners, Ivor B., Jr. and Mary Clark, residing at 2300 West Loop South, Houston, Texas 77027, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 0-53254566). On June 7, 1976, petitioners, Ivor B., Jr. and Mary Clark, advised the State Tax Commission, in writing, that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

I. What portion of nonresident petitioner, Ivor B. Clark's wages was allocable to New York State in 1970?

II. Did a loss claimed with respect to a forfeited deposit on real estate, constitute a proper itemized deduction for the year 1970?

FINDINGS OF FACT

1. Petitioners, Ivor B., Jr. and Mary Clark, filed a 1970 New York State personal income nonresident return. Total wages reported amounted to \$17,000.00, and were allocated to New York State in the amount of \$12,925.00. In itemized deductions, a loss in the amount of \$66,622.00 was claimed for a forfeited deposit on a real estate purchase and related expenses. The Income Tax Bureau disallowed any wage allocation and also the loss and related expense claimed as an itemized deduction because petitioners, Ivor B., Jr. and Mary Clark, failed to furnish requested substantiation. A Notice of Deficiency dated February 25, 1974, was issued in the amount of \$1,401.52 personal income tax due, plus \$240.56 interest, for a sum of \$1,642.08.

2. Petitioners, Ivor B., Jr. and Mary Clark, failed to submit evidence that days worked out of New York for Ivor B. Clark Co., Inc. were related to wages reported.

3. Petitioner, Ivor B. Clark, Jr., entered into a written agreement to purchase seven shopping centers located in New England. He made an earnest money deposit in the amount of \$62,500.00 and incurred related expenses of \$4,122.00. In 1970, petitioner, Ivor B. Clark, Jr., failed to obtain the financing required to purchase the properties and the deposit was forfeited.

CONCLUSIONS OF LAW

A. That no part of the wage income in the amount of \$17,000.00 is allocable as to income earned without New York State and the entire amount constitutes New York source income.

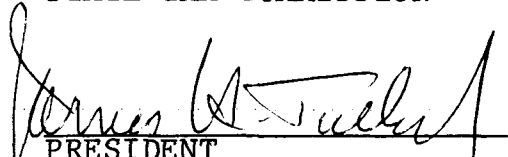
B. That petitioners, Ivor B., Jr. and Mary Clark, properly claimed the forfeited deposit and related expenses totaling \$66,622.00 as an itemized deduction in accordance with section 165 of the Internal Revenue Code.

C. That despite the disallowance of income allocation, the acceptance of the forfeited deposit and related expenses reduces the taxable income to zero and no additional tax is due.

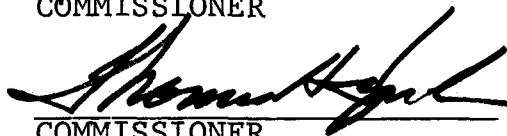
D. That the petition of Ivor B., Jr. and Mary Clark is granted and the Notice of Deficiency issued February 25, 1974 is cancelled.

DATED: Albany, New York  
June 17, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER