

In the Matter of the Petition

of  
BERNARD F. COMBEMALE AND PAMELA W. COMBEMALE AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year ~~(1970)~~ :  
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 29th day of July, 1977, she served the within

Notice of Decision by (certified) mail upon Bernard F. Combemale & Pamela W. Combemale ~~(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. Bernard F. Combemale  
c/o Main LaFrentz & Co.  
280 Park Avenue  
New York, NY 10017

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  
29th day of July, 1977





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
BERNARD F. COMBEMAKE AND PAMELA W. COMBEMALE AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(3)~~ 22 of the :  
Tax Law for the Year ~~(or Period)~~ :  
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 29th day of July , 19 77, she served the within Notice of Decision by (certified) mail upon John King (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: John King Esq. Vittoria & King, Esqs. 630 Fifth Avenue New York, NY 10020 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  
29th day of July , 19 77

Marsina Donnini

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD F. COMBEMALE AND PAMELA W. COMBEMALE

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~~) :  
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 29th day of July, 19 77, she served the within Notice of Decision by (certified) mail upon Joseph R. Coulon, and Alan Farkas (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph R. Coulon, CPA and Alan Farkas, CPA  
Main Lafrentz Co.  
280 Park Avenue  
New York, NY 10017  
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

29th day of July, 19 77

Marsina Donnini

Janet Mack



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

July 29, 1977

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

Mr. and Mrs. Bernard F. Combsale  
c/o Main LaFrentz & Co.  
280 Park Avenue  
New York, NY 10017


Dear Mr. and Mrs. Combsales:

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 ~~(a)~~ **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,

  
Paul B. Coburn  
Supervising Tax Hearing Officer

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition :  
of :  
BERNARD F. COMBEMALE AND PAMELA W. COMBEMALE : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Year 1970. :

---

Petitioners, Bernard F. Combemale and Pamela W. Combemale, have filed a petition for redetermination of a deficiency or for refund for personal income tax under Article 22 of the Tax Law for the year 1970 (File No. 0-0011969).

A formal hearing was held before Harvey B. Baum, Esq., Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 17, 1977 at 9:15 A.M. Petitioners appeared by John King, Esq., Joseph Coulon, CPA, and Allen Farkas, CPA. The Income Tax Bureau appeared by Peter J. Crotty, Esq. (Louis Senft, Esq., of counsel).

ISSUE

Whether petitioners were residents of New York State within the meaning of section 605(a) of the Tax Law and thus subject to New York State income tax upon their entire income earned during the year 1970.

FINDINGS OF FACT

1. A Notice of Deficiency and Statement of Audit Changes, dated June 6, 1975 were filed and sent to petitioners, indicating a deficiency of income tax due for the taxable year 1970 in the amount of \$7,717.37 (with interest and penalty).

2. Petitioners filed an IT-203 (NY State Income Tax Non-resident Return) for the year 1970, dated June 7, 1972, having previously filed a Federal form 2688, application for Extension of Time to File, upon their U.S. Income Tax Return, which late filing application was apparently accepted by the State.

3. Petitioners timely filed a Petition for Redetermination of Deficiency for the subject year, with rider attached indicating the grounds for the challenge, to wit: that they were not New York State residents for income tax purposes during 1970, within the meaning of the applicable sections of the Tax Law and Regulations.

4. Petitioner, Bernard Combemale, was French-born. He became a U.S. citizen in 1954. Sometime prior to 1956, he lived in New York City in an apartment on East 50th Street, but he removed his residence in 1956 when he married co-petitioner, Pamela (Woolworth) Combemale, and became domiciled at his wife's house in Monmouth, Maine (Clearview Farm).

5. Petitioners claim the Maine house as their permanent principal domicile and residence since 1956 to the present. The taxpayer husband is registered and votes in the State of Maine,

and has a drivers license, boat and auto registration all issued by the State of Maine. He also maintains a bank account in the State of Maine and pays taxes there.

6. Petitioners maintained other residences in 1970, including two in France, one in Jamaica, West Indies and a cooperative apartment in New York City, purchased some time that year. Petitioners maintain that these other residences are used solely for business and/or vacation, inasmuch as petitioner husband is an executive of various corporations involved with international finance and bank operations, requiring extensive travel to Europe for business.

7. Petitioner was an officer-employee of Blythe & Co., Inc., a New York City based firm, during the year 1970, acting as an investment banker. He also traveled extensively for this company while employed there, and reported some income on the New York State return for 1970, based upon earned income from Blythe. However, he maintains that he spent less than 82 days in New York City during that year, based upon documentary evidence submitted to show that 283 days during 1970 were spent in Paris, France on other business.

8. While petitioner has a New York residence and telephone listing at 960 Fifth Avenue, it appears that this residence is incidental to a business purpose, and the apartment is not maintained as a principal abode.

CONCLUSIONS OF LAW

A. That petitioners, Bernard F. Combemale and Pamela W. Combemale, were domiciliaries of the State of Maine during the year 1970.

B. That although petitioners, Bernard F. Combemale and Pamela W. Combemale, maintained a permanent place of abode in New York State during the year 1970, they were not residents of New York State in accordance with the meaning and intent of section 605(a)(2) of the Tax Law since they were not domiciled in New York State and spent less than 183 days in New York State during said year.

C. That the petition of Bernard F. Combemale and Pamela W. Combemale is granted and the Notice of Deficiency issued June 6, 1976 is cancelled.

DATED: Albany, New York  
July 29, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER