

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD P. & EDNA I. HOFFMAN

AFFIDAVIT OF MAILING

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

State of New York
County of Albany

Bruce Batchelor, 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 January, 1977, ~~she~~ she served the within
Notice of Decision by (certified) mail upon Edward P. & Edna I.
Hoffman ~~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. Edward P. Hoffman
3746 Lakeshore Drive
Blasdell, New York 14219
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

18th day of January, 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

January 18, 1977

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) 457-1723

Mr. & Mrs. Edward P. Hoffman
3746 Lakeshore Drive
Blasdell, New York 14219

Dear Mr. & Mrs. Hoffman:

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
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Pratt, Jones & Representative~~
~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE TAX COMMISSION

DECISION

Was petitioner, Edna I. Hoffman, a resident of New York State for personal income tax purposes during the year 1971?

FINDINGS OF FACT

1. Petitioners, Edward P. and Edna I. Hoffman, filed a joint 1971 resident New York State personal income tax return on Form IT-201. The wife reported wages earned within New York State but failed to report wages in the amount of \$2,833.90 which she earned in Texas. The Income Tax Bureau held that the wife was a resident of New York State for the taxable year 1971; and therefore, all her income wherever earned was taxable for New York State income tax purposes. The Income Tax Bureau increased the reported taxable income of petitioners, Edward P. and Edna I. Hoffman, by \$2,940.48, to correspond with Federal information it had received. A Notice of Deficiency dated July 20, 1974, for the year 1971, was issued in the amount of \$246.71 additional personal income tax due, plus \$33.87 interest, for a sum of \$280.58.

2. Petitioner, Edna I. Hoffman, took her car and some belongings and went to live with her daughter in Texas on May 27, 1970. She subsequently moved to a different address in Texas. In December of 1970, petitioner, Edna I. Hoffman, returned to New York and lived in the New York home, which she owned jointly with her husband, until February 15, 1971 when she returned to Texas. While in New York in 1971, petitioner, Edna I. Hoffman, worked in New York and earned \$799.58.

3. Petitioners, Edward P. and Edna I. Hoffman, were not legally separated or divorced in 1971. The joint 1971 New York State return contained no indication that the wife was either a part year resident or a nonresident. The return was signed by

both husband and wife and dated February 14, 1972. Their jointly owned New York home was sold in 1973.

CONCLUSIONS OF LAW

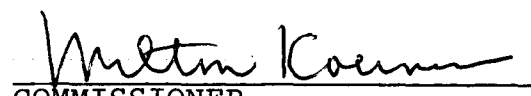
A. That petitioner, Edna I. Hoffman, was domiciled in New York State during the year 1971, spent more than 30 days within New York State during said year and had a permanent place of abode in New York State during said year and, therefore, she was subject to New York State personal income tax as a resident individual during said year, even though part of her income was earned while working in Texas, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the petition of Edward P. and Edna I. Hoffman is denied and the Notice of Deficiency dated July 20, 1974 is sustained.

DATED: Albany, New York
January 18, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER