

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
KENT P. WARD

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 ~~(six or more years)~~ 1973 :

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 27 day of July , 19 77, she served the within Notice of Decision by (certified) mail upon Kent P. Ward ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Kent P. Ward  
55 Harrison Avenue  
Hicksville, New York 11801 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)~~ ~~(XXXXX)~~ 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  
27 day of July , 1977.

Marsina Donnini

Janet 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

July 27, 1977

**Mr. Kent P. Ward**  
**55 Harrison Avenue**  
**Hicksville, New York 11801**

**Dear Mr. Ward:**

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(s) **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 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 Chyrywat**  
**Hearing Examiner**

cc: ~~Retiree's Representative~~  
~~Retiree's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
KENT P. WARD :  
for Redetermination of a Deficiency : DECISION  
or for Refund of Personal Income :  
Taxes under Article 22 of the Tax :  
Law for the Year 1973. :

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Petitioner, Kent P. Ward, residing at 55 Harrison Avenue, Hicksville, New York 11801, has 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 1973 (File No. 13460).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on September 21, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq. of counsel).

ISSUE

Whether the petitioner, Kent P. Ward, was a resident and domiciliary of New York State for the entire year 1973.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Kent P. Ward, was domiciled in New York State when he entered military service in June, 1969. At that time, he resided with his parents in Hicksville, New York.

2. Petitioner was stationed in North Carolina from June, 1969 to January, 1970; in California from January, 1970 to January, 1971; and in Hawaii from January 1, 1971 to April, 1973.

3. In June, 1972 the petitioner's parents sold their home in New York State and moved to Florida. At that time, petitioner changed his military records indicating his home to be in Florida. However, the petitioner indicated that he could not say that he planned to make Florida his permanent home. He was unable to decide where he was going to make his permanent home until after he was discharged from military service.

4. In April, 1973 the petitioner's father died and he received a "compassionate transfer of station" from Hawaii to Florida. He was subsequently discharged from the military while stationed in Florida on June 18, 1973. He worked in Florida and resided with his mother until approximately July, 1973. In or about July, 1973 the petitioner returned to and resided in New York State for the remainder of the year.

5. That the petitioner did not sustain the burden of proof necessary to indicate that he intended to change his domicile from New York to Florida.

6. That the petitioner did not change his domicile from New York to Florida for or during any part of the year 1973.

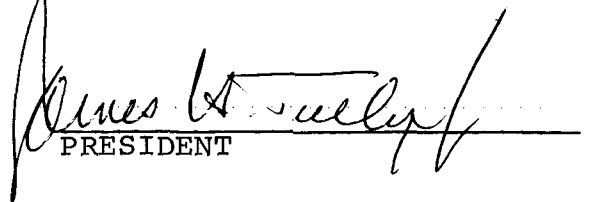
7. That the petitioner maintained a permanent place of abode in New York State and spent more than thirty days in New York State during the year 1973.

8. That the petitioner is held to be a New York State resident for the year 1973, within the meaning and intent of section 605 of the Tax Law.

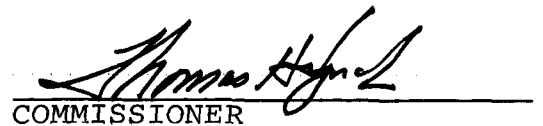
9. That the petition of Kent P. Ward is denied and the Notice of Deficiency issued on October 29, 1974 is sustained together with such additional interest as may be legally owing.

DATED: Albany, New York  
July 27, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER