

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT K. and MARY B. WYATT

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 (x) ~~1971~~ 1972. :

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
xhe is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of April , 1977, xhe served the within
Notice of Decision by (~~certified~~) mail upon Robert K. & Mary B.

Wyatt (~~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. Robert K. Wyatt
11 Moreland Drive
Gerrards Cross, Buckinghamshire, England

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

26th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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of

ROBERT K. and MARY B. WYATT

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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~~) 1972. :

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 26th day of April , 1977, he served the within
Notice of Decision by (certified) mail upon Roger W. Barton

(representative of) the petitioner in the within proceeding,

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

Roger W. Barton, Esq.
104 North Sunset Drive
Ithaca, New York 14850

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

26th day of April , 1977.

Bruce Batchelor

Janet Mack



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

April 26, 1977

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

Mr. & Mrs. Robert K. Wyatt
11 Moreland Drive
Gerrards Cross, Buckinghamshire, England

Dear Mr. & Mrs. Wyatt:

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

Please take further notice that pursuant to
Section(8) **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. Puccio
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ROBERT K. and MARY B. WYATT : DECISION
for Redetermination of Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1972.

Petitioners, Robert K. and Mary B. Wyatt, residing at 11 Moreland Drive, Gerrards Cross, Buckinghamshire, England, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972. (File No. 2-29269042).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Governmental Civic Center, 44 Hawley Street, Binghamton, New York, on October 21, 1976 at 1:15 P.M. Petitioners appeared by Roger W. Barton, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Richard Kaufman, Esq. of counsel).

ISSUE

Were petitioners, Robert W. and Mary B. Wyatt, residents of New York State during the entire year of 1972?

FINDINGS OF FACT

1. Petitioners, Robert W. and Mary B. Wyatt, filed a New York State personal income tax return for the year 1972 in which they indicated their period of New York State residence to be from January 1, 1972 to July 18, 1972.

2. The Income Tax Bureau held that petitioners, Robert W. and Mary B. Wyatt, were domiciliaries of New York State for the entire year of 1972 and, therefore, taxable on all income earned during said year. A Notice of Deficiency was issued May 19, 1975 in the amount of \$645.75 personal income tax due, plus \$58.26 interest, for a sum of \$704.01 less \$274.63 overpayment shown on the return, for a final amount due of \$429.38.

3. Petitioners, Robert W. and Mary B. Wyatt, were residents of New York State since the year 1967. In 1972, petitioner, Robert W. Wyatt, was offered, and accepted, a promotion to a position in England. Petitioners, Robert W. and Mary B. Wyatt, sold their New York State home and purchased a home in England. They left New York State July 18, 1972 and entered England on renewable year to year visas. Petitioners, Robert W. and Mary B. Wyatt, are still in England and are still United States citizens.

CONCLUSIONS OF LAW

A. That petitioners, Robert W. and Mary B. Wyatt, were domiciliaries of New York State during 1972 and at no time during that year effected a change of domicile to England.

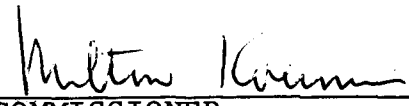
B. That since petitioners, Robert W. and Mary B. Wyatt, were domiciliaries of New York State during 1972, spent more than 30 days in New York, did not have a permanent place of abode outside of New York State for the entire year and did have a permanent place of abode in New York State for part of said year, therefore, they were resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

C. That the petition of Robert W. and Mary B. Wyatt is denied and the Notice of Deficiency dated May 19, 1976 is sustained.

DATED: Albany, New York
April 26, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER