

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NORMAN C. and R. MAXINE PETERSON

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) ~~on Period(s)~~ 1969  
and 1970.

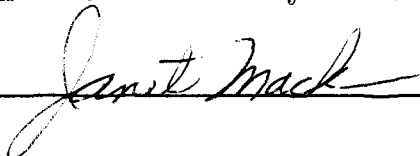
State of New York  
County of Albany

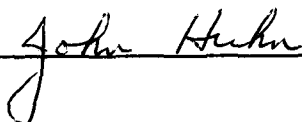
John Huhn, being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 6th day of February, 1978, she served the within  
Notice of Decision by (certified) mail upon Norman C. and R. Maxine  
Peterson (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Norman C. and R. Maxine Peterson  
120 Vanderbilt Ave.  
Staten Island, NY 10304  
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

6th day of February, 1978

  
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STATE TAX COMMISSION

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of

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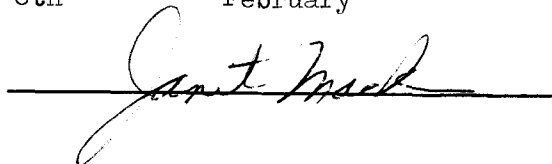
State of New York  
County of Albany

John Huhn , 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 6th day of February , 1978, she served the within  
Notice of Decision by (certified) mail upon Jesse Fishkin  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Jesse Fishkin  
11 Park Place  
New York, NY 10007  
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
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Sworn to before me this

6th day of February , 1978.







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

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

February 6, 1978

Norman C. and R. Maxine Peterson  
120 Vanderbilt Ave.  
Staten Island, NY 10304


Dear Mr. & Mrs. Peterson:

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) <sup>690</sup> 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,

  
Joseph Charywaty  
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
NORMAN C. and R. MAXINE PETERSON	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1969 and 1970.	:	

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Petitioners, Norman C. and R. Maxine Peterson, residing at 120 Vanderbilt Avenue, Staten Island, New York 10304, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 13352).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 22, 1976 at 2:45 P.M. The petitioners appeared by Jesse Fishkin. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioners changed their domicile from New York to Maryland for the period August 1969 until November of 1970.

FINDINGS OF FACT

1. Petitioners, Norman C. and R. Maxine Peterson, filed New York State resident income tax returns for the periods January 1, 1969 through July 31, 1969 and November 27, 1970 through December 31, 1970. They also filed New York State nonresident income tax returns for the periods August 1, 1969 through December 31, 1969 and January 1, 1970 through November 26, 1970.

2. Petitioners resided in New York during the periods for which they filed New York State resident income tax returns. During the periods for which they filed New York State nonresident income tax returns, they resided in Maryland.

3. On March 26, 1973, the Income Tax Bureau issued a Notice of Deficiency against petitioners for the years 1969 and 1970 in the sum of \$1,434.52, based on a Statement of Audit Changes which held that petitioners did not change their domicile from New York State to Maryland and, therefore, their total income for said years was subject to New York State personal income tax.

4. Petitioner Norman C. Peterson accepted a temporary position with the National Bureau of Standards in Gaithersburg, Maryland. Said position was expected to last for a period of twelve months starting approximately September 1, 1969. Petitioner stated that he accepted this position since he failed to receive tenure as an

Associate Professor of Chemistry at Polytechnic Institute of Brooklyn, where he had worked for a number of years.

5. In July of 1969 the petitioners, Norman C. and R. Maxine Peterson, sold their home in New York and moved to Germantown, Maryland, where they rented a house under a one-year lease. Petitioners opened a bank account in Maryland, filed Maryland tax returns and enrolled their children in a school in Maryland. In addition, petitioner R. Maxine Peterson obtained a Maryland driver's license.

6. On December 1, 1969, petitioner Norman C. Peterson received a notification that effective September 1, 1970, he was being reinstated with tenure as an Associate Professor of Chemistry at Polytechnic Institute of Brooklyn. Although he was on sabbatical leave while working in Maryland, he stated he did not expect this reinstatement.

7. During November of 1970, petitioners and their family returned to New York and continued to reside there through the remainder of 1970.

8. Petitioners paid Maryland state and local income tax in the sum of \$498.30 for the year 1970, on the income earned by petitioner Norman C. Peterson from Maryland sources.

CONCLUSIONS OF LAW

A. That the petitioners, Norman C. and R. Maxine Peterson, have failed to sustain the burden of proof required to show that they effected a change in their New York domicile during the years 1969 and 1970 within the meaning and intent of 20 NYCRR 102.2(d)(2). Therefore, petitioners are considered to have been domiciled in New York State for the years 1969 and 1970.

B. That since petitioners were considered to have been domiciled in New York State during 1969 and 1970 and spent more than 30 days within New York State in each of these years, petitioners are residents of New York State for income tax purposes within the meaning and intent of section 605(a) of the Tax Law and 20 NYCRR 102.2(b).

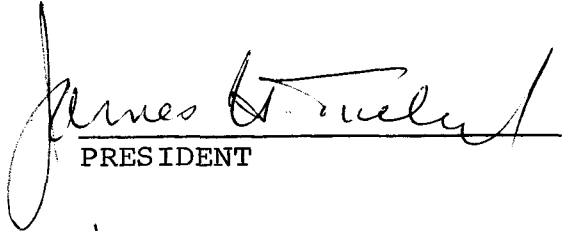
C. That petitioners are entitled to a credit for the Maryland state and local income taxes paid for the year 1970, pursuant and subject to the limitations of section 620 of the Tax Law.

D. That the petition of Norman C. and R. Maxine Peterson is granted to the extent that the Notice of Deficiency issued March 26, 1973 shall be adjusted to reflect the credit for income

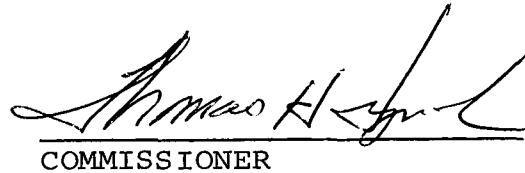
taxes paid to the State of Maryland, and that, except as so granted,  
the petition is in all other respects denied.

DATED: Albany, New York  
February 6, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

STATE OF NEW YORK  
STATE TAX COMMISSION

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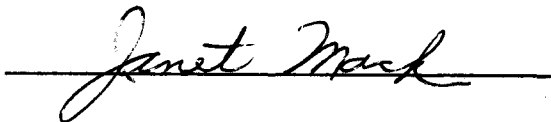
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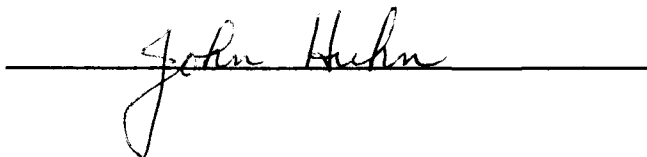
John Huhn , being duly sworn, deposes and says that  
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Notice of Decision by (certified) mail upon Jesse Fishkin  
(representative of) the petitioner in the within proceeding,  
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as follows: Jesse Fishkin  
250 Fulton Avenue  
Hempstead, NY 11550  
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Sworn to before me this

17th day of February , 1978.





STATE OF NEW YORK  
Department of Taxation and Finance  
TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N. Y. 12227

RECEIVED  
Unelivered  
Addressed  
Insufficient  
No such street  
No such office in state  
Do not return in this envelope

NSN

Jesse Fishkin  
11 Park Place  
New York, NY 10007

205 FULTON AVE  
HEMPSTEAD, L. I.