

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jack R. & Josephine Cooper :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income Tax :
under Article 22 of the Tax Law :
for the Year 1971. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, 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 17th day of August, 1979, he served the within notice of Decision by certified mail upon Jack R. & Josephine Cooper, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jack R. & Josephine Cooper
719 Foothill Rd.
Beverly Hills, CA

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
17th day of August, 1979.

Carmen Mottolise

Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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of :
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State of New York
County of Albany

Jay Vredenburg, 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 17th day of August, 1979, he served the within notice of Decision by certified mail upon Morton A. Smith the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Morton A. Smith
460 Park Ave.
New York, NY 10022

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
17th day of August, 1979.

Cassius Mottola

Jay G. Vredenburg



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

STATE TAX COMMISSION

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

August 17, 1979

Jack R. & Josephine Cooper
719 Foothill Rd.
Beverly Hills, CA

Dear Mr. & Mrs. Cooper:

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 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,

A handwritten signature in cursive script, appearing to read "Michael Alexander".

cc: Petitioner's Representative
Morton A. Smith
460 Park Ave.
New York, NY 10022
Taxing Bureau's Representative

FINDINGS OF FACT

1. On December 11, 1972, the Income Tax Bureau received petitioners, Jack R. Cooper and Josephine Cooper's 1971 New York State Income Tax Resident Return (Form IT-201), together with payments of \$19,851.00 in tax and \$794.00 in interest. A claim for refund of the entire amount paid was filed with the return on the grounds that petitioners were not residents of New York State for 1971. On September 24, 1973, the Income Tax Bureau denied the claim for refund.

2. In 1963 petitioners, Jack R. Cooper and Josephine Cooper, moved to New York, where he sold hosiery manufactured by his concern in Yugoslavia. They resided in a rented apartment at 910 Fifth Avenue, New York, New York. On selling his hosiery business in 1967, Jack R. Cooper entered the security trading field and converted his Empire State Building hosiery sales office to this endeavor. In early 1970, petitioners decided to leave New York and moved to London, where they had many business and social contacts. The New York office space was disposed of by an assignment of the remaining term. Some of the furniture in their apartment was shipped to a son in California and some remained in the apartment, which was to be used by another son while he completed his studies at New York University. The rent was paid with funds provided by petitioners. After petitioners' son graduated from college in 1972, petitioners negotiated a settlement on the lease. Petitioners' passports indicated that in 1971, innumerable

trips were made to the United States and that during said year, of 137 days spent in the United States, 77 days were spent in New York State.

3. Petitioner Jack R. Cooper claimed that in 1971 when he was in New York City, he stayed at hotels. Petitioner offered no documentary or other substantial evidence to support this claim.

4. In June of 1970, petitioners, Jack R. Cooper and Josephine Cooper, arrived in London and stayed in a hotel until September, when they leased an apartment. In August of 1971, they purchased a duplex apartment at 3 Upper Belgram Street in London for \$185,000.00 and spent approximately \$35,000.00 to remodel it and another \$50,000.00 to furnish it. In August of 1971, the Bank of England granted petitioners a partial exemption from exchange control regulations and permitted them to maintain a British resident bank account in U.S. dollars. The exemption was conditioned upon retention of their U.S. citizenship. On January 1, 1971, petitioners advised the Passport Division of the U.S. State Department, Washington, D.C., that their permanent address was 46 Upper Grosvenor Street, London, W.C.1, England. On April 6, 1972, the Internal Revenue Service Center, North Atlantic Region, advised petitioners that their 1971 Individual Income Tax Return was being sent to the Philadelphia Service Center because of the "Foreign Address".

5. Petitioners, Jack R. Cooper and Josephine Cooper's life was centered entirely in London. They joined a number of clubs and became members of Temple Emanuel. In 1973 petitioner Josephine Cooper became

involved in a car accident. On her physician's advice, they returned to the United States and moved to California. The under-lease on their London apartment was sold at a minimal loss.

CONCLUSIONS OF LAW

A. That any person domiciled in New York is a resident for income tax purposes for a specific taxable year, unless for that year he satisfies all three of the following requirements: (1) he maintains no permanent place of abode in this State during such year, (2) he maintains a permanent place of abode elsewhere during the entire year, and (3) he spends in the aggregate not more than 30 days of the taxable year in this State (section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b)).

B. That domicile, in general, is defined as the place an individual intends to be his permanent home, as well as the place to which he intends to return whenever he may be absent (20 NYCRR 102.2(d)).

C. That petitioners, Jack R. Cooper and Josephine Cooper, were domiciliaries of New York State for 1971.

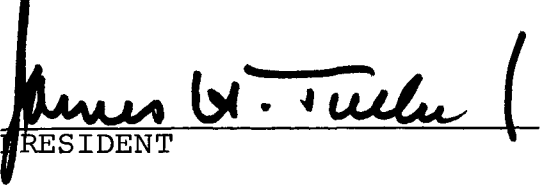
D. That since petitioners, Jack R. Cooper and Josephine Cooper, were domiciliaries of New York during 1971 and maintained a permanent place of abode in the State, they were, therefore, resident individuals, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b).


E. That the petition of Jack R. Cooper and Josephine Cooper is denied and the disallowance of refund by the Income Tax Bureau on September 24, 1973 is sustained.

DATED: Albany, New York

AUG 17 1979

STATE TAX COMMISSION


RESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO..... Paul. Coburn.....

Please file. No better address.

COOPER, JACK R. AND JOSEPHINE

September 10, 1979

M-75 (5/76)

From Robert F. Mulligan

REQUEST FOR BETTER ADDRESS

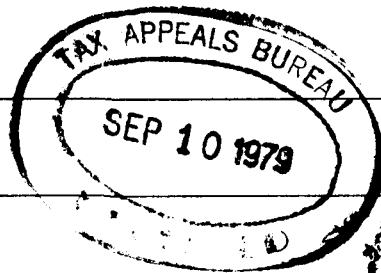
Requested by <i>Wanda</i>	Unit <i>Formal Hearing</i>	Date of Request <i>9/4/77</i>
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>207-26-9365</i>	Date of Petition <i>74/05/16</i>
Name <i>Cooper, Jack R. + Josephine</i>	
Address <i>719 Foothill Road, Beverly Hills, California</i>	

Results of search by Files

<input type="checkbox"/> New address:	
<input type="checkbox"/> Same as above, no better address	
<input checked="" type="checkbox"/> Other:	<i>077# 076# M.L. 075# FMB 9-7-79</i>



Searched by <i>EL</i>	Section <i>1110</i>	Date of Search <i>9-11-79</i>
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PERMANENT RECORD

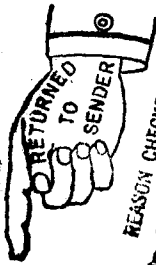
FOR INSERTION IN TAXPAYER'S FOLDER



TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

WJC
10/3
10/3



RETURNED TO SENDER

REASON CHECKED

- Unclaimed _____
- Addressee unknown _____
- Insufficient Address _____
- No such street _____
- Moved left no address _____ number _____
- Box closed not forwardable _____
- Undeliverable as address _____

CLAIM CHECK NO. _____

HOLD

DATE 8/22

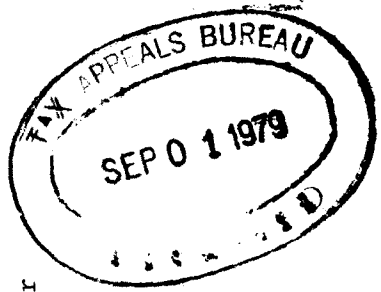
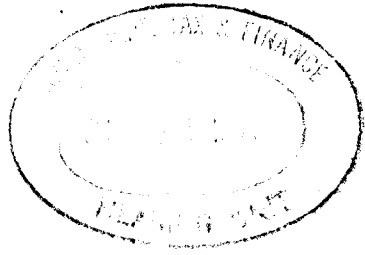
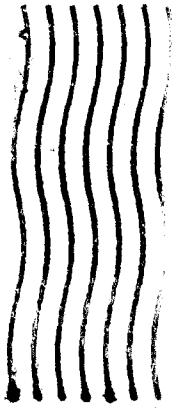
1ST NOTICE

2ND NOTICE

RETURN

Detached from PS Form 3840-A July 1977

CERTIFIED MAIL
297676



Jack R. & Josephine Cooper
719 Foothill Rd.
Beverly Hills, CA

E. L. ...
9/4

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

August 17, 1979

Jack R. & Josephine Cooper
719 Foothill Rd.
Beverly Hills, CA

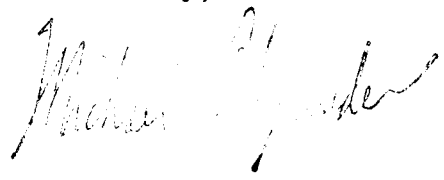
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Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,



cc: Petitioner's Representative
Morton A. Smith
460 Park Ave.
New York, NY 10022
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
JACK R. COOPER and JOSEPHINE COOPER : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1971. :

Petitioners, Jack R. Cooper and Josephine Cooper, 719 Foothill Road, Beverly Hills, California, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 14660).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 16, 1977 at 10:45 A.M. Petitioners appeared by Morton A. Smith, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Bruce M. Salaman, Esq., of counsel).

ISSUE

Whether petitioners were resident individuals of New York State for 1971.

FINDINGS OF FACT

1. On December 11, 1972, the Income Tax Bureau received petitioners, Jack R. Cooper and Josephine Cooper's 1971 New York State Income Tax Resident Return (Form IT-201), together with payments of \$19,851.00 in tax and \$794.00 in interest. A claim for refund of the entire amount paid was filed with the return on the grounds that petitioners were not residents of New York State for 1971. On September 24, 1973, the Income Tax Bureau denied the claim for refund.

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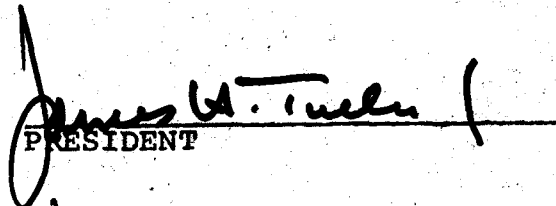
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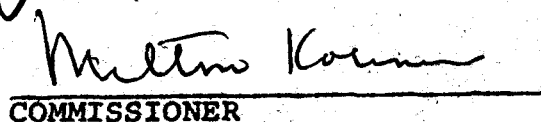
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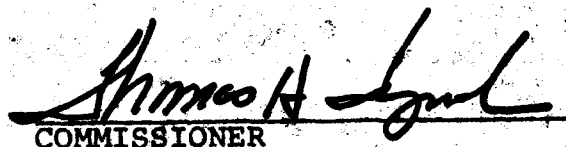
E. That the petition of Jack R. Cooper and Josephine Cooper is denied and the disallowance of refund by the Income Tax Bureau on September 24, 1973 is sustained.

DATED: Albany, New York
AUG 17 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER