

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Louis Coppola :

AFFIDAVIT OF MAILING

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 1964. :

State of New York

County of Albany

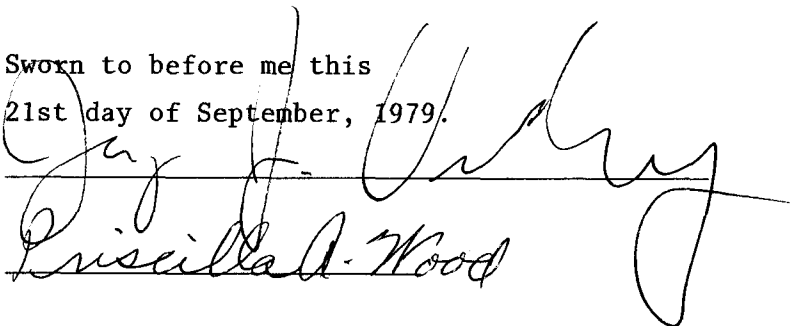
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 21st day of September, 1979, he served the within notice of Decision by certified mail upon Louis Coppola, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Louis Coppola
347 South Broadway
Yonkers, NY

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
21st day of September, 1979.


Ericella A. Wood



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

September 21, 1979

Louis Coppola
347 South Broadway
Yonkers, NY

Dear Mr. Coppola:

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 dark ink, appearing to read "John J. Sollecito", written in a cursive style.

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LOUIS COPPOLA	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1964.	:	

Petitioner, Louis Coppola, 347 South Broadway, Yonkers, New York, 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 1964 (File No. 01145).

A formal hearing was held before Michael Alexander, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 16, 1977 at 2:50 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUE

Whether petitioner was a resident individual of New York State subject to New York personal income tax in 1964.

FINDINGS OF FACT

1. On May 1, 1967, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Louis Coppola. Accordingly, a Notice of Deficiency of the same date was issued for \$151.22.

2. Petitioner initially filed a New York State resident income tax return for 1964, indicating that his residence address was Yonkers, New York. On April 10, 1965, petitioner filed a New York State nonresident income tax return for the same year. He listed his home address on said return as "P.O. Box 13, Forked River, New Jersey," and computed a refund of personal income tax previously

withheld of \$154.05. Petitioner eventually received the refund requested from the Income Tax Bureau.

3. Petitioner was employed by the Federal Aviation Administration (hereinafter FAA) during the year at issue. The FAA withheld \$154.05 in New York State personal income tax from petitioner's wages in 1964.

4. Petitioner initially worked for the FAA in Poughkeepsie, New York, as an electronics technician. In 1961 the FAA told petitioner that he was being transferred to their Barnegat, New Jersey, Systems Maintenance Division. Petitioner immediately moved to New Jersey and lived temporarily in the Toms River Motel in Toms River, New Jersey. He later established a permanent abode in Forked River, New Jersey, as a tenant in a private home. He lived in said home during the year in question.

5. Petitioner worked in New Jersey for the FAA from June of 1961 to approximately August of 1965. Throughout this period, petitioner still considered New York State his "home". Although petitioner resided outside New York State from 1961 until August of 1965, he retained his New York State driver's license and license plates.

6. Petitioner did not maintain a permanent place of abode in New York State while he was working in New Jersey. He did visit his sister's residence at 347 South Broadway, Yonkers, New York, one weekend a month, or less frequently during 1964. He normally remained there for two days during such visits.

7. During the years 1961 through 1965, petitioner did not vote in either New York or New Jersey.

8. The FAA reduced its work force in Barnegat, New Jersey, in 1965, and offered petitioner another assignment at Islip, New York, in their Air Traffic Control Center. In August of 1965, petitioner accepted the assignment and returned to New York State. Petitioner presently resides in Yonkers, New York.

CONCLUSIONS OF LAW

A. That petitioner, Louis Coppola, was a domiciliary of New York State during 1964, but did not maintain a permanent place of abode in New York State, did maintain a permanent place of abode elsewhere for the entire taxable year, and spent, in the aggregate, not more than thirty days in New York State during said year.

B. That petitioner, Louis Coppola, was not a "resident individual" of New York State during 1964, within the meaning and intent of section 605(a)(1) of the Tax Law; therefore, he was not subject to the New York State personal income tax during the year in question.

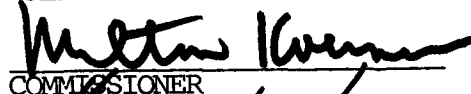
C. That the petition of Louis Coppola is granted and the Notice of Deficiency issued May 1, 1967 is cancelled.

DATED: Albany, New York

SEP 21 1979

STATE TAX COMMISSION

PRESIDENT


COMMISSIONER


COMMISSIONER