

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD G. HOFMANN, III

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) ~~XXXX Period(s)~~
1971 and 1972

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 24th day of January , 1979 , she served the within
Notice of Decision by (certified) mail upon Edward G.

Hofmann, III ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Edward G. Hofmann, III
509 Hopkinson House
Washington Square South
Philadelphia, Pennsylvania 19106

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)~~
~~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

24th day of January , 1979.

Marilyn J. Papineau

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

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of

EDWARD G. HOFMANN, III

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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(s) ~~XXXXXXX~~ :
1971 and 1972

State of New York
County of Albany

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he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of January , 19 79, he served the within
Notice of Decision by (certified) mail upon Marshall J.
Gluck (representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Marshall J. Gluck
437 Madison Avenue
39th Floor
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.

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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

24th day of January , 19 79

Marilyn J. Papineau

John Huhn



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

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

January 24, 1979

Edward G. Hofmann, III
509 Hopkinson House
Washington Square South
Philadelphia, PA 19106

Dear Mr. Hofmann, III

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

You have now exhausted your right of review at the administrative level. Pursuant to section **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 **four 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,

[Signature]
Michael Alexander
Supervising Tax
Hearing Officer

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
EDWARD G. HOFMANN, III : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Years :
1971 and 1972. :
:

Petitioner, Edward G. Hofmann, III, 509 Hopkinson House, Washington Square South, Philadelphia, Pennsylvania 19106, 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 1971 and 1972 (File No. 12129).

A formal hearing was held before Solomon Sies, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 22, 1977 at 9:25 A.M. Petitioner appeared by Koch and Gluck, Esqs. (Marshall J. Gluck, Esq., of counsel). The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether petitioner was a resident of New York State for personal income tax purposes for 1971 and 1972.

FINDINGS OF FACT

1. Petitioner, Edward G. Hofmann, III, filed New York State resident income tax returns for 1971 and 1972. He listed his address as New York, New York, on both of these returns. Petitioner's 1971 New York State return listed \$2,637.22 of \$31,972.14 in Federal income as New York income. Petitioner's 1972 New York State return listed \$4,321.46 of \$33,763.94 in Federal income as New York income.

2. On September 8, 1975, the Income Tax Bureau issued a Statement of Audit Changes against petitioner asserting additional personal income tax for 1971 and 1972 of \$2,631.08, plus \$569.95 in interest, and of \$2,856.68, plus \$559.40 in interest, respectively. This was done on the grounds that petitioner was a resident of New York State in said years and, therefore, all income was includible on his New York State return. Accordingly, on November 24, 1975, a Notice of Deficiency was issued totalling \$6,616.71.

3. Petitioner was a registered voter in New York State during the period in issue. He served on jury duty in New York State in 1971.

4. Petitioner resided at 423 East 64th Street, New York, New York, from 1963 to November of 1969. He was a domiciliary of New York State in this period. In November of 1969, petitioner terminated employment with his New York employer and commenced work with the Aetna Life and Casualty Company located in Hartford, Connecticut. Petitioner entered into a lease on a furnished apartment in Hartford, Connecticut, in November of 1969 and continued to maintain his New York apartment throughout the period in issue. Petitioner abandoned his Hartford apartment in June of 1972, when he changed his employment from Aetna to Penn Mutual Life Insurance Company of Philadelphia, Pennsylvania, and entered into a lease on a Philadelphia apartment.

5. Petitioner was employed by Aetna and Penn Mutual as an investment analyst, which position required him to keep abreast of and to maintain personal contacts with the financial community in New York City. Petitioner maintained bank accounts in Hartford and Philadelphia during the period in issue. He also maintained bank accounts in New York throughout the entire period in issue. Petitioner listed his New York City address as his address of residence on both his 1971 and 1972 Federal income tax returns.

6. Petitioner owned a home in St. James, New York, throughout the period in issue. He contended that it was held for investment purposes only, but offered no proof to support his contention.

7. On November 24, 1973, petitioner sent a letter to Warren S. Brundige, Income Tax Audit Supervisor for New York State, in which he stated in the third paragraph that, "During the entire time I worked at Aetna, I lived during the week in a leased apartment (#222) at 610 Asylum Avenue, Hartford." (emphasis supplied). In the last paragraph he further stated that he was, at the time of the letter, living in his Philadelphia apartment "during the week".

8. Petitioner spent more than 30 days in New York State in each of the years in issue.

9. Petitioner's 1972 W-2 form from Aetna listed petitioner's address as St. James, New York.

CONCLUSIONS OF LAW

A. That petitioner, Edward G. Hofmann, III, was a domiciliary of New York State for 1971 and 1972, and that he spent more than 30 days in New York State in each of said years. Therefore, he was a resident of New York State for income tax purposes pursuant to Section 605(a)(1) of the Tax Law and, thus, all of his income for the years at issue was includable in his New York adjusted gross income and was subject to taxation by New York State.

B. That the petition of Edward G. Hofmann, III, is denied and the Notice of Deficiency issued November 24, 1975 is sustained.

DATED: Albany, New York
January 24, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO ..Ms.. Davis

Please file.

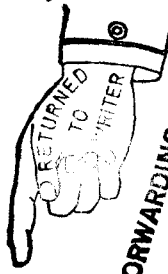
Better address

February 13, 1979

Michael Alexander

TA-26 (4-76) 25M

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



**FORWARDING ORDER
EXPIRED**

Edward G. Hoffman, III
509 Hopkinson House
Washington Square South
Philadelphia, Pennsylvania 19106

expired 6574

145031

STATE OF NEW YORK
STATE TAX COMMISSION

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AFFIDAVIT OF MAILING

State of New York
County of Albany

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age, and that on the 13th day of February, 1979, he served the within
Notice of Decision by (certified) mail upon Edward G.
Hoffman, III ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Edward G. Hofmann, III
225 St. Paul's Avenue, #15D
Jersey City, NJ

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Sworn to before me this

13th day of February, 1979

Maureen J. Papineau

John Huhn