

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Burton S. Sann :  
: 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 :  
1974.

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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 6th day of November, 1981, he served the within notice of Decision by certified mail upon Burton S. Sann, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Burton S. Sann  
150 E. 69th St.  
New York, NY 10021

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  
6th day of November, 1981.

*Barrie A. Hegeland*

*J. Vredenburg*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Burton S. Sann :

: 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 :  
1974 :

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 6th day of November, 1981, he served the within notice of Decision by certified mail upon Milton Miller the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Milton Miller  
Miller & Co., CPA's  
575 Lexington Ave., Suite 1660  
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  
6th day of November, 1981.

Annita A. Hagelund

J. Vredenburg

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

November 6, 1981

Burton S. Sann  
150 E. 69th St.  
New York, NY 10021

Dear Mr. Sann:

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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Milton Miller  
Miller & Co., CPA's  
575 Lexington Ave., Suite 1660  
New York, NY 10022  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
BURTON S. SANN	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law for the Year 1974.	:	

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Petitioner Burton S. Sann, 150 East 69th Street, New York, New York 10021, 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 1974 (File No. 20552).

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 25, 1981. The petitioners appeared by Milton Miller, CPA. The Audit Division appeared by Ralph J. Vecchio, Esq., (Paul A. Lefebvre, Esq., of counsel).

ISSUE

Whether petitioner is entitled to a resident credit.

FINDINGS OF FACT

1. Petitioner Burton S. Sann and his wife Roslyn Sann timely filed a New York State combined income tax resident return for 1974.
2. On September 26, 1977, the Audit Division issued a Notice of Deficiency against petitioner for 1974 asserting personal income tax of \$88.00 plus interest. Said notice was the result of a field audit which denied petitioner a resident credit of \$88.00 which he contended represented income taxes he paid to the State of South Carolina on income derived from Commodity Traders International less a loss derived from another business, International Warehouse

Company of Charleston Heights, South Carolina. A copy of what purports to be a South Carolina income tax return has been submitted but was unsigned and undated. Mr. Sann has not shown that he paid the amount in question.

CONCLUSIONS OF LAW

A. That petitioner Burton S. Sann is not entitled to a resident credit since the partnership Commodity Traders International did not maintain a bona fide office outside New York State (see Matter of Commodity Traders International, signed on this date).

B. That the petition of Burton S. Sann is denied and the Notice of Deficiency issued on September 26, 1977 is sustained.

DATED: Albany, New York  
NOV 06 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER