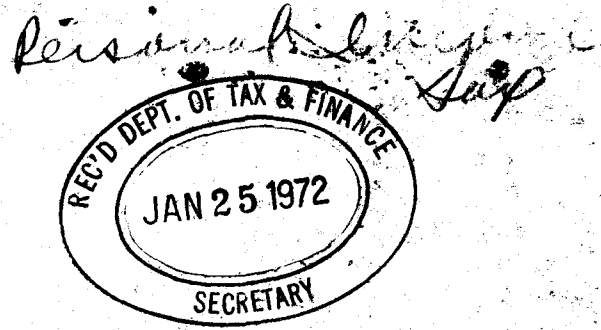


cc: Mr. Hook



January 24, 1972

Mr. Richard Seid
Debevoise, Plimpton, Lyons & Gates
320 Park Avenue
New York, New York 10022

Re: Sylvia Corning Trust
Ersula Corning Trust

Dear Mr. Seid:

The decisions of the above cases are now pending before the State Tax Commission.

I cannot promise any definite date for a notification of the decisions, but we will get to it as soon as possible.

Sincerely,

signed

ROSEMARY GALLAGHER
Commissioner

NGW/lw

From **JOSEPH H. MURPHY**, Commissioner

Forward original and duplicate of this form with attachments

TO: **Mr. Rook**BUREAU
OR OFFICE

FOR:

1. ☐ Your Information
2. ☐ Written Comments
3. ☒ Reply for **N. G. J.H.M.** signature
4. ☐ Your Attention And Reply Direct
To Correspondent
5. ☐ Discussion With J.H.M.

Material From The Governor's Office:

6. ☐ Reply for J.H.M. signature
and forward original and 4 copies
to Commissioner's Office
7. ☐ Suggested reply for use by the
Governor's Office and forward original
and 3 copies to Commissioner's Office

Name of Correspondent

1-17-72

Richard Seid

Address

Debevoise Plimpton, Lyons & Gates
320 Park Avenue
New York, New York 10022

RE:

Sylvia Corning Trust
Ursula Corning Trust

DATE: 1-20-72

Please prepare an original and 3 copies of all written material forwarded to this office except as otherwise noted. Also, kindly return original copy of this memo with any material forwarded in regard to the matter in upper right box.

OTHER INFORMATION:

Joseph H. Murphy

DEBEVOISE, PLIMPTON, LYONS & GATES

320 PARK AVENUE

NEW YORK, N. Y. 10022

TELEPHONE: (212) PLAZA 2-6400

CABLE: DEBSTEVE NEW YORK

TELEX: 224400

CHARLES ANGULO

COUNSEL

EUROPEAN OFFICE
5, PLACE DU PALAIS BOURBON
PARIS 7ème

TELEPHONE 555-06-66

CABLE: DEBSTEVE PARIS

TELEX: 25602

ELI WHITNEY DEBEVOISE
FRANCIS T. P. PLIMPTON
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SIDNEY G. EDWARDS
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GUY PASCHAL
DAVID V. SMALLEY
CECIL WRAY, JR.
JOHN F. JOHNSTON 2ND
ROBERT L. KING
BEVIS LONGSTRETH
STEPHEN J. FRIEDMAN
JOHN D. NILES

*Mr. Reck
fms*

January 17, 1972

Mr. Norman F. Gallman
State Tax Commissioner
Department of Taxation and Finance
Building 9
State Campus
Albany, New York 12226

Sylvia Corning Trust
Ursula Corning Trust

Dear Mr. Gallman:

We are attorneys for First National City Bank,
Trustee of the above captioned trusts.

A hearing was held before Mr. Nigel G. Wright,
Hearing Officer, concerning these trusts on December
15, 1970. Could you please let me know when we might
expect a decision.

Thank you very much for your cooperation in
this matter.

Sincerely yours,

Richard Seid

Richard Seid

DEBEVOISE, PLIMPTON, LYONS & GATES

320 PARK AVENUE

NEW YORK 10022



Mr. Norman F. Gallman
State Tax Commissioner
Department of Taxation and Finance
Building 9
State Campus
Albany, New York 12226

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SYLVIA CORNING TRUST

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1963, 1964, :
1965 and 1966.

State of New York
County of Albany

Rae Zimmerman , 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 29th day of February , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Sylvia
Corning Trust
(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Sylvia Corning Trust
First National City Bank
399 Park Avenue
New York, N.Y.
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

29th day of February , 1972

Matthew F. Farnsworth

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

SYLVIA CORNING TRUST

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1963, 1964,
1965 and 1966.

State of New York
County of Albany

Rae Zimmerman, 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 29th day of February, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Richard Seid, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Richard Seid, Esq.
Debevoise, Plimpton, Lyons & Gates
320 Park Avenue
New York, N.Y. 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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

29th day of February, 1972

Martha F. Farnsworth

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Albany, New York

February 29, 1972

**Sylvia Corning Trust
First National City Bank
399 Park Avenue
New York, N.Y.**

Gentlemen:

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

Please take further notice that pursuant to **Section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel C. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
URSULA CORNING TRUST

For a Redetermination of a Deficiency or
a Refund of Personal Income :
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962, 1963, 1964
and 1965

**AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL**

State of New York
County of Albany

Rae Zimmerman , 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 29th day of February , 1972 , she served the within Notice of Decision (or Determination) by (certified) mail upon Ursula Corning Trust (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Ursula Corning Trust
First National City Bank
399 Park Avenue
New York, N.Y.
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

29th day of February , 1972.

Martha Furusato

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

URSULA CORNING TRUST

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962, 1963, 1964
and 1965

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Rae Zimmerman 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 29th day of February, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Richard Seid, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Richard Seid, Esq.
Debevoise, Plimpton, Lyons & Gates
320 Park Avenue
New York, N.Y. 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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

29th day of February, 1972.

Martha Furrow

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Albany, New York

**Ursula Corning Trust
First National City
399 Park Avenue
New York, N.Y.**

Gentlemen:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **four months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of the	:	
	:	
SYLVIA CORNING TRUST	:	
	:	
for the Redetermination of Deficiencies or	:	
for Refund of Personal Income Taxes under	:	DECISION
Article 22 of the Tax Law for the years	:	
1963, 1964, 1965 and 1966.	:	

In the Matter of the Petition	:
	:
of the	:
	:
URSULA CORNING TRUST	:
	:
for the Redetermination of Deficiencies or	:
for Refund of Personal Income Tax under	:
Article 22 of the Tax Law for the years	:
1962, 1963, 1964 and 1965.	:

The Sylvia Corning Trust filed petitions under section 689 of the Tax Law for refunds for the years 1963 and 1964 and for a redetermination of deficiencies for the years 1965 and 1966 of personal income taxes imposed by Article 22 of the Tax Law.

The Ursula Corning Trust filed petitions under section 689 of the Tax Law for refunds for the years 1962 and 1963 and for the redetermination of deficiencies for the years 1964 and 1965 of personal income taxes imposed by Article 22 of the Tax Law. A hearing was held on December 15, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. Richard Seid, Esq., and C. Clark Stover, Esq., of Debevoise, Plimpton, Lyons & Gates appeared for petitioners and

and Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel) appeared for the Income Tax Bureau. The record of said hearing has been duly examined and considered.

ISSUE

The issue in these cases is the residence status of the two trusts under section 605(c) of the Tax Law which turns on the place of domicile of the settler of the trust, Dr. Hanson Kelly Corning, at the time the trusts were created in 1922 and 1923.

FINDINGS OF FACT

1. In 1922 and 1923, Dr. Hanson Kelly Corning created two irrevocable trusts, one for his wife, Sylvia, and one for his daughter, Ursula. These are the trusts here in issue.

2. Dr. Corning's father lived in New York City prior to the Civil War where he became independently wealthy. Desiring the cultural advantages of Europe he moved there in 1867, living in various places until 1881 when he settled in Geneva, Switzerland, staying in the same house until 1892. At some later date, but prior to 1916 he returned to the United States and resided in Milford, Connecticut, where he died in July 1924.

3. Dr. Corning was born in New York City on November 19, 1860. In 1867 he left with his parents for Europe. He was schooled in Europe, graduating from the gymnasium in Zurich in 1879 and attending medical schools in Germany. He became 21 in 1881. In 1888 he began a career of teaching and in 1893 secured a position at the University of Basle, Switzerland, where he remained until 1928, when he retired as Professor of Anatomy, having achieved great professional fame. He stayed in Basle

until 1936 when, at 75 years of age, he moved with his wife and daughter to New York City because of the impending war. He died in 1951 at the age of 90 in New York City.

4. Dr. Corning was married in 1902 in England to an English citizen, Sylvia Broome. He had a daughter, Ursula, born in Basle in 1903. Dr. Corning's wife and daughter were in the United States prior to 1936 only during the summers of 1919 and 1924. Dr. Corning himself visited the United States almost every year at least between 1919 and 1924, primarily to visit relatives in Morristown, New Jersey and Tuxedo Park, New York and to visit his aged father in Milford, Connecticut.

5. A certificate of the Police Department of the Canton of Basle, Switzerland states that Dr. Corning "was domiciled in Basle from May 6, 1893 to October 2, 1936, at the address of 17 Bundesstrasse". A license and certificate of marriage issued in 1902 in England states Dr. Corning to have a residence in Basle, Switzerland. In 1916, Dr. Corning's father described Dr. Corning in a letter as a resident of Basle. In 1928, Dr. Corning purchased a cemetery plot in Geneva, the deed to which described him as a domiciliary of Basle. In 1929 he opened a custodian account in a New York bank describing himself as a resident of Basle. In 1933, Dr. Corning wrote a letter of instructions to his wife concerning finances in case of his death, which indicated no plan or intention of his return to the United States.

6. Dr. Corning swore to a passport application on January 11, 1921, in which he stated that his legal domicile was in Basle, Switzerland, his permanent residence was at New York City, he was

residing in Basle for the purpose of his university professorship and he desired a passport for the purpose of temporary residence in Switzerland. A similar application sworn to December 23, 1922, stated that he would return to the United States permanently within 2 years or when he gave up his professorship. These applications state that Dr. Corning was not acquainted with any American citizen in Basle except the American Consul. A letter from Dr. Corning to the American Consul dated January 9, 1927, stated that he could not "really lay a claim to a legal residence in the United States".

CONCLUSIONS OF LAW

Dr. Corning was not a domiciliary of New York when he created the trusts in question in 1922 and 1923, and the trusts are therefore nonresident trusts under section 605 of the Tax Law.

DECISION

The petitions are granted. The refunds are granted for 1963 and 1964 for the Sylvia Corning Trust and for 1962 and 1963 for the Ursula Corning Trust. The deficiencies for 1965 and 1966 against the Sylvia Corning Trust and for 1964 and 1965 against the Ursula Corning Trust are erroneous and are cancelled.

DATED: Albany, New York

February 29, 1972

STATE TAX COMMISSION

Lyman J. Sullivan
COMMISSIONER

Bruce Bradley
COMMISSIONER

Milton Korman
COMMISSIONER