

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HERBERT A. & INGEBORG FILLER

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) 1966

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

State of New York
County of Albany

Lynn Wilson , 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 31st day of May , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon HERBERT A. &
INGEBORG FILLER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Herbert A. & Ingeborg Filler
1, Allee Le Notre
78 Le Vesinet, France
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

31st day of May , 1972.

Martha Furnace

Lynn Wilson



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

DATED: Albany, New York
May 31, 1972

Herbert A. & Ingeborg Filler
1, Allee Le Notre
78 Le Vesinet, France

Dear Sir and Madam:

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

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

L. Robert Leisner

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

HERBERT A. & INGEBORG FILLER : DECISION

for Redetermination of a Deficiency or for :
Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year 1966. :

The taxpayers, Herbert A. and Ingeborg Filler, filed a petition for redetermination of a deficiency in income tax for the year 1966. The case was submitted for decision on the information in the file.

ISSUES

I. Did the taxpayers change their domicile from New York State to New Delhi, India, on August 10, 1966?

II. Was the taxpayer a "resident" of New York State for income tax purposes for the entire year 1966?

FINDINGS OF FACT

1. Taxpayers filed a New York State income tax return for the year 1966. In that return, taxpayers reported their status to be that of residents only for the period up to and including August 10, 1966 and claimed a refund of \$452.05.

2. The Income Tax Bureau issued a Notice of Determination of a Deficiency in income for the year 1966 under File No. 69109370 against the taxpayers on the ground that the taxpayers were residents of New York State and taxable on all of their income for the entire year.

3. The taxpayers timely filed a petition for redetermination of the deficiency and for refund of income tax. Herbert A. Filler worked for IBM in New York State, and was assigned by International Business Machines (IBM) as its general manager for India in August, 1966.

4. The taxpayers left New York on August 10, 1966. When they left New York, they changed their abode to 3B, Golf Links, New Delhi, India. They obtained an Indian visa and a residential permit. They paid the Indian income tax. After their departure they did not maintain any abode in the United States and they sold their home in the United States in September, 1966.

5. The taxpayers filed a federal form 2555, "Statement to Support Exemption of Income Earned Abroad" to cover the income Herbert A. Filler earned in India, after leaving New York in August, 1966.

6. Several years later, the taxpayers moved to Paris, France, with Herbert Filler working for IBM in France. They have set up a permanent abode there and state that they intend to reside in France permanently.

CONCLUSIONS OF LAW

A. The taxpayers changed their domicile from New York to New Delhi, India, on August 10, 1966.

B. The taxpayers changed their residence from New York to New Delhi, India, on August 10, 1966, and they maintained no residence in New York after that date.

C. The taxpayers' income earned in India after August 10, 1966 was not subject to New York income tax.

D. It is determined that there is no deficiency in income tax against petitioners for the year 1966. The taxpayers' petition, and claim for refund are sustained.

DATED: Albany, New York

May 31, 1972.

STATE TAX COMMISSION

COMMISSIONER

Bruce Hanley

COMMISSIONER

Milton Koehn

COMMISSIONER