

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THEODORE I. LESTON AND
KATHERINE LESTON

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 16 of the
Tax Law for the (Year(s) 1960

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 8th day of December, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon THEODORE I. LESTON AND KATHERINE LESTON (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Theodore I. and Katherine Leston
c/o Joseph D. Blau & Co.
1790 Broadway
New York 19, New York
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

8th day of December, 1972

Matthew Huraro

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THEODORE I. LESTON AND
KATHERINE LESTON

For a Redetermination of a Deficiency or
a Refund of Personal Income
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Tax Law for the (Year(s) 1960

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OF NOTICE OF DECISION
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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 8th day of December, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon JOSEPH D. BLAU &
CO. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Joseph D. Blau & Co.
1790 Broadway
New York 19, New York

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

8th day of December, 1972.

Maitha Furano

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

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
December 8, 1972

Theodore I. and Katherine Leston
c/o Joseph D. Blau & Co.
1790 Broadway
New York 19, New York

Dear Mr. and Mrs. Leston:

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

Please take further notice that pursuant to **section 375 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **90 days** 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,

Paul B. Coburn

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
THEODORE I. LESTON AND KATHERINE LESTON	:	DETERMINATION
for Revision or Refund of Personal Income	:	
Taxes under Article 16 of the Tax Law for	:	
the Year 1960.	:	

Applicants, Theodore I. Leston and Katherine Leston, have filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1960. (File No. AB009435). A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on May 27, 1965 at 9:00 A.M. Joseph D. Blau & Co., C.P.A.'s by Jesse Rubenstein appeared for applicants, Theodore I. Leston and Katherine Leston.

FINDINGS OF FACT

1. Applicants, Theodore I. Leston and Katherine Leston, filed a joint New York State income tax resident return for the period from January 1, 1960 to February 18, 1960.

2. On May 23, 1962, the Income Tax Bureau issued a notice of additional assessment against applicants, Theodore I. Leston and Katherine Leston imposing additional income tax upon the income received by them for the period from February 18, 1960 to December 31, 1960, upon the ground that their removal from New York State was only for a temporary and limited period and did not constitute a permanent change of residence, and assessed additional income tax against them in the sum of \$504.63, which tax was paid.

3. Applicant, Theodore I. Leston, came to the United States from Central Europe in 1939. He became a United States citizen in 1944. In February, 1960 he and his wife vacated their apartment in New York City and sold the furnishings and fixtures therein. They did not own any real property in the United States. They did not vote in New York State after February, 1960. In February, 1960 they took up residence in Paris, France. During the year 1960 he had earned income from sources without the United States of \$10,003.51.

4. Applicants, Theodore I. Leston and Katherine Leston, did not surrender their United States passports during 1960. They did not apply for French citizenship. He was not returning to his country of origin. They did not list their foreign address on any of their 1960 Federal or State tax returns, but instead listed their New York accountant's business address. Their accountant in requesting an extension of time to file their 1960 Federal income tax return stated that "they are currently abroad and do not expect to return to the United States for several months". They did not exclude from gross income his earned income in 1960 from sources without the United States in connection with their filing of their 1960 Federal income tax return. They spent more than 30 days during 1960 in New York State. Between February 18, 1960 and May 27, 1965, they returned to the United States on only one occasion and then only for a brief period of time.

CONCLUSIONS OF LAW

A. That during the year 1960, applicants, Theodore I. Leston and Katherine Leston, were domiciled in New York State in accordance with the meaning and intent of 20 NYCRR 102.2(d) and section 605(a)(i) of the Tax Law.

B. That during the year 1960, applicants, Theodore I. Leston and Katherine Leston, were resident individuals of New York State in accordance with the meaning and intent of section 605(a) of the Tax Law, and therefore subject to tax for the entire year of 1960.


C. That since applicants, Theodore I. Leston and Katherine Leston, for the taxable year 1960 failed to exclude from their Federal adjusted gross income, his income earned from sources without the United States under section 911 of the Internal Revenue Code of 1954, they may not exclude such earnings from their New York State adjusted gross income in accordance with the meaning and intent of section 612(a) of the Tax Law.

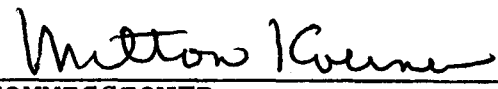
D. That the application of Theodore I. Leston and Katherine Leston for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1960 is denied and the notice of additional assessment, dated May 23, 1962, is sustained.

DATED: Albany, New York
December 8, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

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HEARING UNIT

EDWARD ROOK
SECRETARY TO
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ADDRESS YOUR REPLY TO

DATED: Albany, New York
December 8, 1972

Theodore I. and Katherine Leston
c/o Joseph D. Blau & Co.
1790 Broadway
New York 19, New York

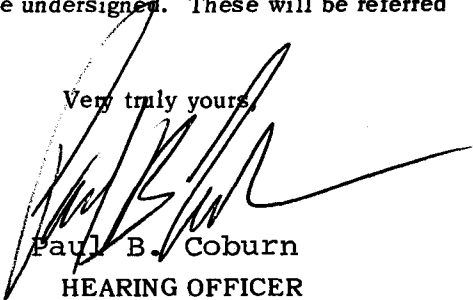
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Please take notice of the DETERMINATION of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to section 375 of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within 90 days 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,


Paul B. Coburn
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
THEODORE I. LESTON AND KATHERINE LESTON : DETERMINATION
for Revision or Refund of Personal Income :
Taxes under Article 16 of the Tax Law for :
the Year 1960. :

Applicants, Theodore I. Leston and Katherine Leston, have filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1960. (File No. AB009435). A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York on May 27, 1965 at 9:00 A.M. Joseph D. Blau & Co., C.P.A.'s by Jesse Rubenstein appeared for applicants, Theodore I. Leston and Katherine Leston.

FINDINGS OF FACT

1. Applicants, Theodore I. Leston and Katherine Leston, filed a joint New York State income tax resident return for the period from January 1, 1960 to February 18, 1960.
2. On May 23, 1962, the Income Tax Bureau issued a notice of additional assessment against applicants, Theodore I. Leston and Katherine Leston imposing additional income tax upon the income received by them for the period from February 18, 1960 to December 31, 1960, upon the ground that their removal from New York State was only for a temporary and limited period and did not constitute a permanent change of residence, and assessed additional income tax against them in the sum of \$504.63, which tax was paid.

3. Applicant, Theodore I. Leston, came to the United States from Central Europe in 1939. He became a United States citizen in 1944. In February, 1960 he and his wife vacated their apartment in New York City and sold the furnishings and fixtures therein. They did not own any real property in the United States. They did not vote in New York State after February, 1960. In February, 1960 they took up residence in Paris, France. During the year 1960 he had earned income from sources without the United States of \$10,003.51.

4. Applicants, Theodore I. Leston and Katherine Leston, did not surrender their United States passports during 1960. They did not apply for French citizenship. He was not returning to his country of origin. They did not list their foreign address on any of their 1960 Federal or State tax returns, but instead listed their New York accountant's business address. Their accountant in requesting an extension of time to file their 1960 Federal income tax return stated that "they are currently abroad and do not expect to return to the United States for several months". They did not exclude from gross income his earned income in 1960 from sources without the United States in connection with their filing of their 1960 Federal income tax return. They spent more than 30 days during 1960 in New York State. Between February 18, 1960 and May 27, 1965, they returned to the United States on only one occasion and then only for a brief period of time.

CONCLUSIONS OF LAW

A. That during the year 1960, applicants, Theodore I. Leston and Katherine Leston, were domiciled in New York State in accordance with the meaning and intent of 20 NYCRR 102.2(d) and section 605(a)(1) of the Tax Law.

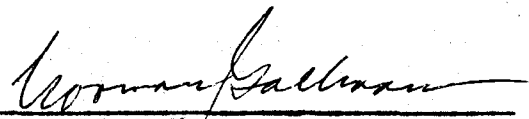
B. That during the year 1960, applicants, Theodore I. Leston and Katherine Leston, were resident individuals of New York State in accordance with the meaning and intent of section 605(a) of the Tax Law, and therefore subject to tax for the entire year of 1960.

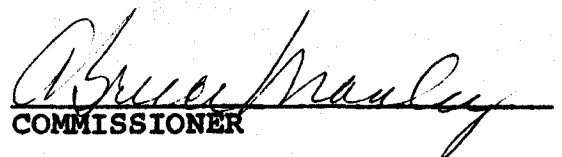
C. That since applicants, Theodore I. Leston and Katherine Leston, for the taxable year 1960 failed to exclude from their Federal adjusted gross income, his income earned from sources without the United States under section 911 of the Internal Revenue Code of 1954, they may not exclude such earnings from their New York State adjusted gross income in accordance with the meaning and intent of section 612(a) of the Tax Law.

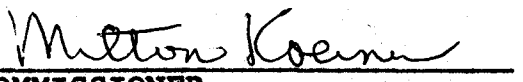
D. That the application of Theodore I. Leston and Katherine Leston for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1960 is denied and the notice of additional assessment, dated May 23, 1962, is sustained.

DATED: Albany, New York
December 8, 1972

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COMMISSIONER


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STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227



NEW YORK, NEW

[illegible]

~~Theodore I. and Katherine Leston
c/o Joseph D. Blau & Co.
1790 Broadway
New York 19 New York~~



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
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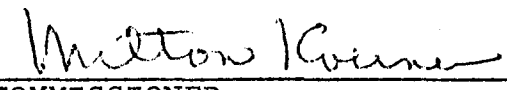
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STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227

RECEIVED
JAN 19 1954
NEW YORK, NEW YORK
Joseph D. Blau & Co.
1790 Broadway
New York 19, New York

Wm. J. Blau