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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CURTIS NEAL

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

For a Redetermination of a Deficiency or
a Refund of Personal Income and Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s) 1964 and 1965.

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 19th day of July , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon CURTIS NEAL

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Curtis Neal
Red Creek, New York 13143

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

19th day of July , 1973.

Maitha Durao

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CURTIS NEAL

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

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 22 & 23 of the
Tax Law for the (Year(s) 1964 and 1965

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 19th day of July , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon SHELDON G.

KALL, ESQ. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Sheldon G. Kall, Esq.

Main Street
Red Creek, New York 13143

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

19th day of July , 1973

Janet A. Duran

Lynn Wilson



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

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
July 19, 1973

Mr. Curtis Neal
Red Creek, New York 13143

Dear Mr. Neal:

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

Please take further notice that pursuant to **sections 690 & 722**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 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,

L. Robert Leisner
L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CURTIS NEAL	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income and	:	
Unincorporated Business Taxes under	:	
Articles 22 and 23 of the Tax Law	:	
for the Years 1964 and 1965.	:	

The taxpayer, Curtis Neal, filed a petition for redetermination of deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1964 and 1965.

A hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Syracuse, New York, on June 27, 1972. The taxpayer was represented by Sheldon G. Kall, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUE

Did Mr. Neal change his domicile from New York State to Florida in September 1964, where he claims to have remained domiciled up until June 1965, when he returned to his home in New York State?

FINDINGS OF FACT

1. Taxpayer timely filed New York State resident personal income tax and unincorporated business tax returns for the years 1964 and 1965.

2. A Notice of Determination of deficiencies for the two years here involved, 1964 and 1965, was issued against the taxpayer under File No. 32589842 for both personal income tax and unincorporated business tax. The unincorporated business tax assessment was withdrawn prior to the hearing.

3. The taxpayer petitioned for a redetermination of the deficiencies.

4. In August or September 1964, taxpayer moved to Florida with his family. He placed his New York house up for sale, and moved his furniture to his rented Florida address.

5. Taxpayer entered his children in Florida schools, joined a club and a church and told his brother he intended to remain in Florida.

6. Taxpayer moved back to New York with his family in June 1965 after suffering business reverses in Florida.

7. Taxpayer had departed for and returned from Florida at approximately the same time for four preceding years 1960, 1961, 1962 and 1963.

CONCLUSIONS OF LAW

A. The taxpayer did not change his domicile to Florida in September 1964 and he remained a domiciliary of New York during the period of time of September 1964 through June 1965, when he lived in Florida.

B. Taxpayer lived in his house in New York from January through September 1964 and June through December 1965.

C. Taxpayer was a resident of the State of New York during each of these two years. A New York resident must pay taxes on all income received during the taxable year no matter where it is earned. Tax Law section 612.

D. The taxpayer's petition for a redetermination of the income tax for 1964 and 1965 is denied. The determination of the deficiency is sustained.

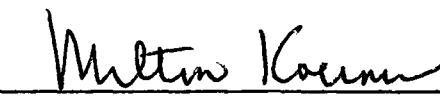
E. Pursuant to the Tax Law, statutory interest shall be added to the total amount due until time of payment.

DATED: Albany, New York
July 19, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER