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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

W. CLARKE SWANSON, JR.

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(8) 22 of the  
Tax Law for the (Year(8) 1966

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

State of New York  
County of Albany

Martha Funaro , 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 25th day of June , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon W. Clarke Swanson, Jr.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. W. Clarke Swanson, Jr.

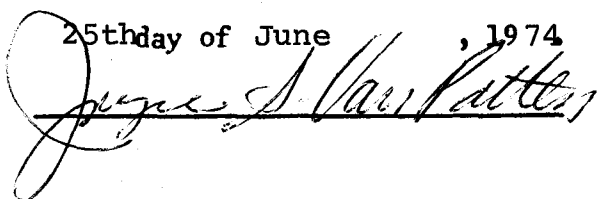
8401 West Dodge Road  
Omaha, Nebraska 68114

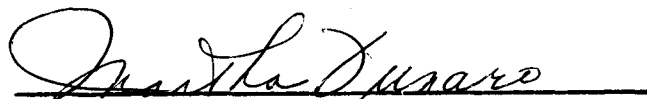
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Post Office Department within the State of New York.

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

25th day of June , 1974





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

W. CLARKE SWANSON, JR.

For a Redetermination of a Deficiency or  
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Tax Law for the (Year(s) 1966

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Notice of Decision (or Determination) by (certified) mail upon William F. Indoe,  
Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

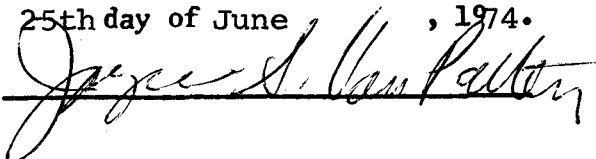
William F. Indoe, Esq.  
Sullivan & Cromwell  
48 Wall Street

and by depositing same enclosed ~~New York~~ <sup>New York</sup> ~~postpaid~~ <sup>properly</sup> 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

25th day of June , 1974.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

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

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**DATED:** Albany, New York  
**June 25, 1974**

**Mr. W. Clarke Swanson, Jr.**  
**8401 West Dodge Road**  
**Omaha, Nebraska 68114**

**Dear Mr. Swanson:**

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,

  
**Paul B. Coburn**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
W. CLARKE SWANSON, JR.	:	DECISION
	:	
for Redetermination of Deficiency	:	
or for Refund of Personal Income	:	
Tax under Article 22 of the Tax	:	
Law for the Year 1966.	:	
	:	
	:	

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Petitioner, W. Clarke Swanson, Jr., has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1966.  
(File No. 69111034).

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on November 14, 1972, at 9:15 A.M. and on December 12, 1972, at 9:15 A.M. Petitioner appeared by Sullivan & Cromwell, Esqs., (William F. Indoe, Esq., of Counsel). The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Was petitioner, W. Clarke Swanson, Jr., a resident individual of New York State during the year 1966?

FINDINGS OF FACT

1. Petitioner, W. Clarke Swanson, Jr., filed a New York State income tax nonresident return for the year 1966. He claimed a refund of \$1,284.38 on said return.

2. On December 16, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, W. Clarke Swanson, Jr., imposing additional personal income tax for the year 1966 in the sum of \$17,901.29 upon the grounds that he was a resident of New York State during all of said year. It also imposed a penalty pursuant to section 685(b) of the Tax Law in the sum of \$895.06. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$20,589.34.

3. Petitioner, W. Clarke Swanson, Jr., was born on December 4, 1938, the eldest son of W. Clarke Swanson, a prominent Omaha, Nebraska businessman. Among many other enterprises, the Swanson family was the owner of several companies which produced and marketed "Swanson Foods". The Swanson food companies were acquired by the Campbell Soup Company in 1955.

4. After attending preparatory schools in Omaha, petitioner, W. Clarke Swanson, Jr., began studies at Stanford University in the fall of 1956. Upon graduating in June, 1960, he returned home to Omaha, where he took a part-time job until joining the U. S. Army Reserves that November. He was released from active duty in May of 1961. In September, he planned to attend Columbia Law School.

5. Petitioner, W. Clarke Swanson, Jr.'s father died in April, 1961 and as a result, he inherited substantial capital. At his father's funeral, it was suggested by Mr. Joseph King of Eastman, Dillon, a New York investment banking house which has been financial

advisor to the Swanson family for at least two generations, that he spend his summer before law school learning the basics of the investment banking business. He worked at Eastman, Dillon from August, 1961 until September of that year when he matriculated at Columbia Law School. For personal reasons, he withdrew from Columbia in December, 1961 and returned home to Omaha.

6. While home in Omaha, petitioner, W. Clarke Swanson, Jr., became acquainted with Mr. Webster Pullen, who at that time was courting petitioner's aunt. Lacking any specific plans for his future, he was urged by Mr. Pullen to become a local employee at the Puerto Rican branch of First National City Bank, where Mr. Pullen was an officer. He departed from Omaha for Puerto Rico in early spring, 1962. When his training period was completed early in 1964, he severed all connections with First National City Bank, left Puerto Rico, and thereafter travelled through South America for about two months. He then returned to Omaha.

7. At the further suggestion of Mr. Pullen, petitioner, W. Clarke Swanson, Jr., decided to become a trainee at First National City Bank's New York headquarters. He departed from Omaha for New York in May, 1964. While at Citibank, he was shuttled among various departments to gain an overview of the functions of a large bank. He had intended to use his bank training, not as a stepping stone to a career in commercial banking, but as a means of acquiring knowledge to better manage his own and his family's investments. Accordingly, in the summer of 1965, when he felt the

training program was no longer useful to his long range objectives, he left First National City Bank.

8. After further talks with Mr. King and Mr. Pullen, petitioner, W. Clarke Swanson, Jr., decided he could best further his long range objectives by learning investment banking on the spot. Following a brief trip to Europe with members of his family during the summer of 1965, he became a trainee with Stone & Webster Securities Corporation in New York around September, 1965.

9. While at Stone & Webster Securities Corporation, petitioner, W. Clarke Swanson, Jr., became deeply involved in the broadcast industry, and especially cable television, then an infant industry. The Swanson family already had broadcast properties which he, early in 1966, wanted to acquire on his own. He reasoned that his experience with those companies would give him a base from which he could develop investments in cable television. After working out suitable arrangements to acquire the family broadcast properties, in April or May of 1966, he contacted brokers who dealt in cable television properties. He looked at properties in Oklahoma and Michigan which did not appeal to him. Through a broker named Hugh Ben Larue, he found what he thought was an attractive cable television property, "Highlands Cable Television" (referred to herein as "Highlands"), which had outlets in Sebring and Avon Park, Florida. After a hurried series of negotiations involving trips to Omaha, Louisiana and Florida, he concluded a contract to acquire Highlands on June 21, 1966, with formal control to be assumed on July 8, 1966.



10. During the period he was trying to find a suitable property, petitioner, W. Clarke Swanson, Jr., was still a trainee at Stone & Webster Securities Corporation. After negotiations to acquire Highlands were wound up, he left Stone & Webster Securities Corporation and was in Florida before July 4, 1966.

11. As soon as petitioner, W. Clarke Swanson, Jr., took control of Highlands, he found that Highlands had far fewer cable television outlets than the seller had represented. As a consequence, he was under great pressure from his family for failing to investigate Highlands properly and he had to work night and day through the end of 1966 to turn Highlands around.

12. All during the time petitioner, W. Clarke Swanson, Jr., was a trainee at First National City Bank (both in Puerto Rico and New York) and Stone & Webster Securities Corporation and during the early years in which he owned Highlands, he had a home in Omaha in the Swanson Towers. It was an apartment building owned in partnership with his brother and sister. His Omaha residence was a separate apartment in said building and not a room in a family residence or some other sharing arrangement. He used this apartment during his frequent trips home to Omaha. When working at First National City Bank in New York, he stayed in a rented apartment at 17 East 76th Street in Manhattan. At the time he became a trainee at Stone & Webster Securities Corporation, he stayed in an apartment at 222 Central Park South in Manhattan. He maintained this apartment through 1966.

13. When petitioner, W. Clarke Swanson, Jr., first arrived in Florida, he lived in a motel across the street from the Highlands office. He moved to a rented house in Sebring later in 1966.

14. All through his life, including the year in issue, petitioner, W. Clarke Swanson, Jr., regarded Omaha as his permanent home. His family always was in Omaha. His home in the Swanson Towers was in Omaha. His personal business affairs were conducted from Omaha. During 1966, he was attached to a unit of the U. S. Army Reserves and received all correspondence from the military at his home in Omaha. During 1966, he had a will in effect, which recites that he was "a resident of Omaha, Nebraska". He voted by absentee ballot in Omaha in 1966. He never voted nor registered to vote in New York State. He had a Nebraska drivers license in 1966. He never had a New York drivers license or a car registered in New York. He employed an attorney and an accountant in Omaha. He maintained business and personal bank accounts at the Omaha National Bank.

15. Petitioner, W. Clarke Swanson, Jr., spent less than 183 days in New York State during the year 1966.

#### CONCLUSIONS OF LAW

A. That petitioner, W. Clarke Swanson, Jr., was a domiciliary of the State of Nebraska during the year 1966.

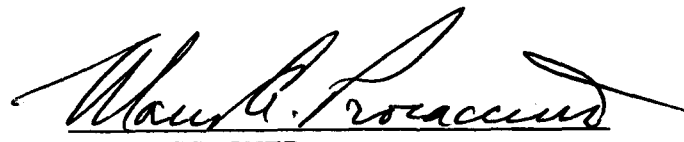
B. That although petitioner, W. Clarke Swanson, Jr., maintained a permanent place of abode in New York State during the year 1966, since he was not domiciled in New York State and since

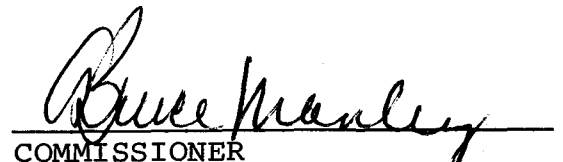
he spent less than 183 days in New York State during said year, he was therefore a nonresident individual during said year in accordance with the meaning and intent of sections 605(a)(2) and 605(b) of the Tax Law.


C. That the petition of W. Clarke Swanson, Jr., is granted; that the Notice of Deficiency, issued December 16, 1968, is cancelled; and, that the Income Tax Bureau is hereby directed to refund to him the sum of \$1,284.38, together with such interest as may be lawfully due.

DATED: Albany, New York  
June 25, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER