

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD S. KOLTISKA

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)~~ 1970.

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

State of New York
County of Albany

JANET MACK, 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 27th day of August, 1975, she served the within
Notice of Decision (~~xxx xxx xxx xxx~~) by (certified) mail upon Edward S. Koltiska

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

533 Sixth Avenue
McKeesport, Pennsylvania 15132

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~~
~~xx~~) 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

27th day of August, 1975.

Mary Goff

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD S. KOLTISKA

For a Redetermination of a Deficiency or
a Refund of **Personal Income**
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year ~~(x)~~ 1970.

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

State of New York
County of Albany

JANET MACK

, 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 27th day of August, 1975, she served the within

Notice of Decision (~~BY DECISION MAIL~~) by (certified) mail upon Jerome Bernstein, CPA

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Jerome Bernstein, C.P.A.

c/o Bernstein & Friedman

10 East 40th Street

New York, New York

and by depositing same enclosed in a postpaid properly addressed wrapper in a

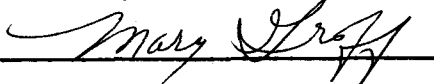
(post office or official depository) under the exclusive care and custody of

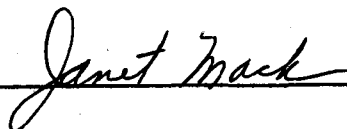
the United States Post Office Department within the State of New York.

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

27th day of August, 1975.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
James H. Tully, Jr.
~~SECRETARY TO COMMISSION~~, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

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

DATED: Albany, New York
August 27, 1975

Mr. Edward S. Koltiska
533 Sixth Avenue
McKeesport, Pennsylvania 15132

Dear Mr. Koltiska:

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

Please take further notice that pursuant to
Section ~~76~~ **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

In the Matter of the Petition	:	
of	:	
EDWARD S. KOLTISKA	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1970.	:	

Petitioner, Edward S. Koltiska, residing at 533 Sixth Avenue, McKeesport, Pennsylvania 15132, 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 1970 (File No. 0-69268759.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 19, 1975, at 1:05 P.M. Petitioner appeared by Jerome Bernstein, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

Was petitioner, Edward S. Koltiska, a New York State domiciliary during the year 1970?

FINDINGS OF FACT

1. Petitioner, Edward S. Koltiska, filed a New York State

income tax resident return for the period from January 1, 1970 to August 31, 1970. He claimed a refund of \$590.77.

2. On December 28, 1973, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Edward S. Koltiska, imposing additional personal income tax for the year 1970 in the sum of \$1,214.32 upon the grounds that he was a domiciliary and resident of New York State for the entire year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,411.20.

3. Petitioner, Edward S. Koltiska, was born and raised in McKeesport, Pennsylvania. In June, 1958, he came to New York State to be employed by Chesebrough-Pond's, Inc. in their international division. He was hired with the understanding that upon completion of his training period, he would receive an overseas assignment. The training period in the New York City office lasted for one and one-half years. He lived in a furnished room in New York City during this period of time.

4. In 1960, petitioner, Edward S. Koltiska, was transferred to the Japan office of Chesebrough-Pond's, Inc., where he remained for eight years.

5. In March, 1968, petitioner, Edward S. Koltiska, returned from Japan to the United States because of the death of his father.

At the time that he returned, he was scheduled to be transferred in June to London, England as general manager of Chesebrough-Pond's, Inc. operations in the United Kingdom. His furniture was shipped from Japan to England. However, due to changes in the international division, he was required to work out of the New York office in a trouble-shooting capacity visiting overseas operations. This was a temporary assignment that lasted until August, 1970. During this period of time he lived first in a hotel and later in a furnished apartment in New York City. He was traveling outside of the United States approximately fifty percent of the time.

6. In August, 1970, petitioner, Edward S. Koltiska, was transferred to Japan as general manager of its Japanese operations by Chesebrough-Pond's, Inc. In December, 1970, he was promoted to vice-president of the Far East division of said corporation and transferred to Australia. He remained there until December, 1972.

7. In December, 1972, petitioner, Edward S. Koltiska, left the employ of Chesebrough-Pond's, Inc. and returned to live in McKeesport, Pennsylvania, where he presently resides. He has not lived in New York State from August, 1970 to the present time.

8. Petitioner, Edward S. Koltiska, never voted in New York State. He has voted in Pennsylvania by absentee ballot. He has never had a New York State driver's license or automobile registration. He never belonged to any organizations located in New York State.

He has maintained bank accounts in New York State and in Pennsylvania.

9. Petitioner, Edward S. Koltiska, spent less than 183 days in New York State during the year 1970.

10. Petitioner, Edward S. Koltiska, earned \$26,877.97 in New York State during the year 1970.

CONCLUSIONS OF LAW

A. That petitioner, Edward S. Koltiska, was a domiciliary of the State of Pennsylvania during the year 1970. He never acquired a New York State domicile.

B. That since petitioner, Edward S. Koltiska, was not domiciled in New York State and spent less than 183 days in New York State during the year 1970, therefore he was a nonresident individual for said year in accordance with the meaning and intent of sections 605(a)(2) and 605(b) of the Tax Law and only his income actually earned in New York State was subject to New York State personal income tax.

C. That the petition of Edward S. Koltiska is granted; that the Notice of Deficiency is cancelled; and that the Income Tax Bureau is hereby directed to refund to him the sum of \$3,010.60, together with such interest as may be lawfully due.

DATED: Albany, New York
August 27, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER