STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DONALD E. BORTLE

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

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

State of New York
County of Albany

MARYLOU SAMUELS, 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 13th day of April, 1976, she served the within Notice of Decision (~~or Determination~~) by (certified) mail upon Donald E. Bortle (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Donald E. Bortle
9202 East Roberto Street
Tucson, Arizona 85710

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
13th day of April, 1976.

Janet Mack

Marylou Samuels

AD-1.30 (1/74)

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO
MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) 457-3850

Dated: Albany, New York
April 13, 1976

Mr. Donald E. Bortle
9202 East Roberto Street
Tucson, Arizona 85710

Dear Mr. Bortle:

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 decision 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
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: [redacted]
Law Bureau

TA-1.12 (12/75)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of DONALD E. BORTLE for a Redetermination of Deficiency or for Refund of Personal Income Tax under Article 22 of the Tax Law for the Year 1970.	DECISION

Petitioner, Donald E. Bortle, residing at 9202 East Roberto Street, Tucson, Arizona 85710, 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. 1-89867073).

The petitioner, in writing, waived a formal hearing and submitted the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

I. Was the petitioner, Donald E. Bortle, a resident individual of New York State during the year 1970?

II. Did petitioner, Donald E. Bortle, have reasonable cause for failing to file a New York State income tax return for the year 1970?

FINDINGS OF FACT

1. Petitioner, Donald E. Bortle, failed to file a New York State personal income tax return for the year 1970.

2. On August 26, 1974, the Income Tax Bureau issued a Statement of Audit Changes against the petitioner, Donald E. Bortle, assessing New York State personal income tax upon all of his income earned during the year 1970, and penalties for failure to file a New York State income tax return for said year. In making this determination, a standard deduction was applied to his total income rather than the itemized deductions which had appeared on his Federal income tax return. In accordance with the aforesaid Statement of Audit Changes a Notice of Deficiency was issued in the total amount of $1,779.95.

3. Petitioner, Donald E. Bortle, is an officer in the United States Air Force. He entered the service in September, 1951 while a domiciliary of New York State. During the year 1970 he was stationed in Korea, while his wife and family resided in a home in Sherrill, New York.

4. Petitioner, Donald E. Bortle, asserted that he did not spend more than thirty days in New York during 1970. He offered no evidence to substantiate this assertion.

5. Petitioner, Donald E. Bortle, failed to submit any documentary or other substantial evidence to prove that he effected a change of domicile to another state prior to or during the year 1970.

6. Petitioner, Donald E. Bortle, failed to file a New York State income tax return for the year 1970 because he was advised by the Air Force that he was not subject to New York State taxation.

CONCLUSIONS OF LAW

A. That petitioner, Donald E. Bortle, was domiciled in and maintained a permanent place of abode in New York State during the

entire year of 1970 and therefore, all of his income was subject to New York State personal income tax as a resident individual in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the additional New York State personal income tax due from, petitioner, Donald E. Bortle for the year 1970 should be recomputed utilizing his Federal taxable income as his New York State taxable income in order to provide for itemized deductions due to him.

C. That petitioner, Donald E. Bortle, had reasonable cause for failing to file a New York State income tax return for the year 1970 and therefore, the penalties assessed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law are waived.

D. That the petition of Donald E. Bortle is granted to the extent of reducing New York taxable income from $17,507.14 to $15,956.20 and of reducing New York personal income tax due from $1,020.79 to $930.62 together with suce interest as may be lawfully due and of cancelling the penalties imposed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law in the sum of $400.17; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued August 26, 1974; and, that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
April 13, 1976

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DONALD E. BORTLE

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) 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 17th day of June , 1976 , she served the within Notice of Decision (~~or Determination~~) by (certified) mail upon Donald E. Bortle (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Donald E. Bortle
216 W. Hamilton Avenue
Sherrill, NY

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
17th day of June , 1976

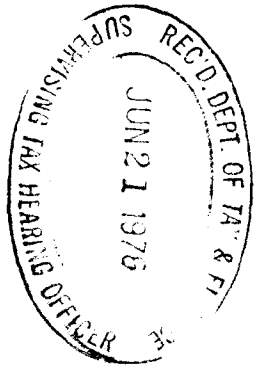
Janet Mack

AD-1.30 (1/74)

TA-26 (1/76)

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

UNDELIVERABLE AS ADDRESSED



Mr. Donald E. Bortle
216 W. Hamilton Avenue
Sherrill, NY

IT-775 (1/64)

Income Tax Bureau

BETTER ADDRESS

INSTRUCTIONS TO FILES:

☒ Find most recent address of taxpayer Donald C Bostic

☐ Find most recent address of partner or fiduciary 9220 Roberts Street Dawson, Oregon

SS# 112-14-6352

INSTRUCTIONS TO CHARGE DESK:

☐ Remail c/o Employer (If more than one employer, list name) Date of Petition: 7/14/16

☒ Remail to taxpayer at:

~~Examiner~~ Paul B. Calvert ~~Supervising Tax Hearing Officer~~

~~Division~~ Room 127 ~~Unit~~ IAG Bldg 9

FILES SECTIONS SEARCHES:

☐ Latest Kardveyer 19___ 71 Ald. Dist. 0244# 073 6/4/76
Other K.V. Years 19___ 0733# SSO72 SSO alpha

☐ Telephone Book 216 W. Hamilton

Hamilton Jr. H.

0-75# 6/4/76

☐ City Directory

☐ Other

Searched by_____ File Section_____

Date _____

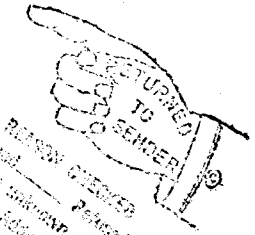
PERMANENT RECORD

ATTACH TO LOWER LEFT CORNER OF RETURN

STAPLE LEFT SIDE ONLY

TA-26 (1/76)

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



Mr. Donald E. Bortle
254 Palmetto Drive
Shaw AFB, South Carolina 29152

Dear Mr.
Davis Monthan AFB, AZ.
85707

N.L.
4/30/76

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO
MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) 457-3850

Dated: Albany, New York
April 13, 1976

REMAILED: June 17, 1976

Mr. Donald E. Bortle
9202 East Roberto Street
Tucson, Arizona 85710

Dear Mr. Bortle:

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Please take further notice that pursuant to Section (s) 690 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 4 months from the date of this notice.

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Very truly yours,

Paul B. Coburn
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: ~~Petitioner's Representative~~
Law Bureau

TA-1.12 (12/75)

STATE OF NEW YORK

STATE TAX COMMISSION

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entire year of 1970 and therefore, all of his income was subject to New York State personal income tax as a resident individual in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the additional New York State personal income tax due from petitioner Donald E. Bortle for the year 1970 should be recomputed utilizing his Federal taxable income as his New York State taxable income in order to provide for itemized deductions due to him.

C. That petitioner, Donald E. Bortle, had reasonable cause for failing to file a New York State income tax return for the year 1970 and therefore, the penalties assessed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law are waived.

D. That the petition of Donald E. Bortle is granted to the extent of reducing New York taxable income from $17,507.14 to $15,956.20 and of reducing New York personal income tax due from $1,020.79 to $930.62 together with suce interest as may be lawfully due and of cancelling the penalties imposed pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law in the sum of $400.17; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued August 26, 1974; and, that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
April 13, 1976

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER