

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT L. WAGAR

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~XX~~ 22 of the :
Tax Law for the Year ~~(XX) OF (XX) (XX) (XX)~~ 1970:

State of New York
County of Albany

Catherine Steele, 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 23rd day of August, 1976, she served the within
Notice of Decision by ~~(certified)~~ mail upon Robert L. Wagar

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Robert L. Wagar
Ejgardsvej 20 B
2920 Charlottenlund, Denmark

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~
~~of the~~ 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

23rd day of August, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT L. WAGAR

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~30~~ 22 of the :
Tax Law for the Year ~~1969~~ 1970:

State of New York
County of Albany

Catherine Steele, 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 23rd day of August, 1976, she served the within
Notice of Decision by ~~(certified)~~ mail upon Stephen M. Brecher, Esq.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Stephen M. Brecher, Esq.
c/o Peat, Marwick, Mitchell & Co.
26 rue de Berri
75008 Paris 8e, France
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
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last known address of the (representative of the) petitioner.

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Janet Mack

Catherine Steele



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

August 23, 1976

TELEPHONE: (518) **457-3850**

Mr. Robert L. Wagar
Ejgardsvej 20 B
2920 Charlottenlund, Denmark

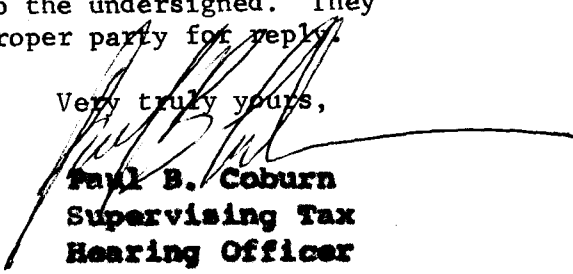
Dear Mr. Wagar:

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

Please take further notice that pursuant to
Section **(X) 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.

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. They
will be referred to the proper party for reply.

Very truly yours,


Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

ROBERT L. WAGAR :

DECISION

for Redetermination of a Deficiency
or for Refund of Personal Income Tax
under Article 22 of the Tax Law for the
Year 1970. :

Petitioner, Robert L. Wagar, petitioned for redetermination of a
deficiency in personal income tax under Article 22 of the Tax Law for the
year 1970.

The case was submitted for decision on information contained in the
file and referred to L. Robert Leisner, Hearing Officer, for review. The
taxpayer was represented by Stephen M. Brecher, Esq., and the Income Tax
Bureau was represented by Saul Heckelman, Esq.

ISSUE

Was the taxpayer, Robert L. Wagar, a resident of New York State
for the year 1970?

FINDINGS OF FACT

1. Petitioner, Robert L. Wagar, timely filed New York State income
tax returns for the year 1970.

2. A Notice of Deficiency in personal income tax for the year 1970 was issued on September 24, 1973, against the taxpayer, Robert L. Wagar, under File No. 0-69269966 in the sum of \$192.43.

3. The taxpayer, Robert L. Wagar, petitioned for redetermination of the deficiency. He was born in Topeka, Kansas in 1943. He moved to California with his parents in 1946 and lived his childhood and adult life in California. He lived there from 1946 until 1968.

4. The taxpayer, Robert L. Wagar, was a California domiciliary. In June, 1968, he took employment in New York State. He remained in New York State leasing an apartment from September, 1969 until September, 1970, when he terminated his employment in New York State and took long-term employment in Europe with a firm based in Boston, Massachusetts. He has remained employed in Europe since. He never intended to establish a permanent New York home.

5. The Income Tax Bureau contended that the taxpayer, Robert L. Wagar, was a domiciliary of New York State.

6. The taxpayer, Robert L. Wagar, contended that he was never a domiciliary of New York and he was not taxable for the rest of 1970 after he left New York State in September.

CONCLUSIONS OF LAW

A. That the taxpayer, Robert L. Wagar, by coming to New York State for work from June 1968 until September 1970, and taking an apartment for a one year lease, did not become a domiciliary of New York. Under section 654 of the Tax Law, he changed his resident status during the year 1970 when he left New York State in September 1970. That portion of his 1970 income earned after he left New York State was not taxable by New York State. Kritzik v. Gallman, 41 A.D. 2d 994 (3rd Dept. 1973)

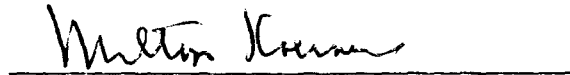
B. That the taxpayer, Robert L. Wagar's petition is granted. It is determined that there is no deficiency and that his refund shall be granted according to his return.

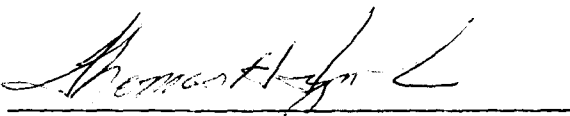
C. That pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
August 23, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



P.I.

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

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Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

TA-26 (4-76) 25M

STATE OF NEW YORK

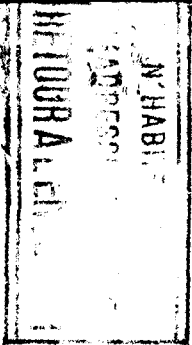
Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

[Handwritten signature]
Stephen M. Br  cher, Esq.
c/o Peat, Marwick, Mitchell & Co.
26 rue de Berri
75008 Paris 8e, France



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ROBERT L. WAGAR
for Redetermination of a Deficiency
or for Refund of Personal Income Tax
under Article 22 of the Tax Law for the
Year 1970.

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DECISION

Petitioner, Robert L. Wagar, petitioned for redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the year 1970.

The case was submitted for decision on information contained in the file and referred to L. Robert Leisner, Hearing Officer, for review. The taxpayer was represented by Stephen M. Brecher, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq.

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CONCLUSIONS OF LAW

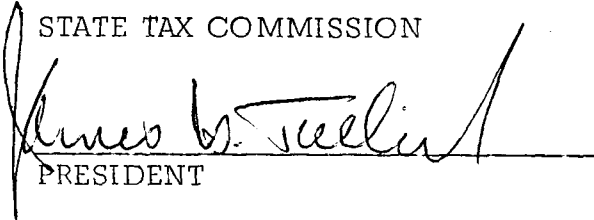
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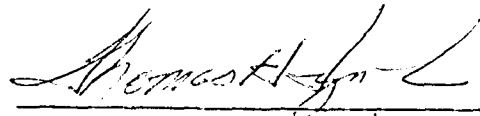
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