

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MILLIE S. BOYNTON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(x)~~ 22 of the :  
Tax Law for the Year ~~(s)~~ ~~xxx~~ ~~Period~~ ~~(x)~~ 1971. :

State of New York  
County of Albany

Bruce Batchelor , 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 8th day of April , 1977, ~~she~~ served the within  
Notice of Decision by (certified) mail upon Millie S. Boynton

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Ms. Millie S. Boynton  
c/o Burke & Burke, Daniels, Leighton and Reid  
30 Rockefeller Plaza

and by depositing same enclosed in a postpaid properly addressed wrapper in a  
New York, New York 10020  
(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)~~ 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

8th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

MILLIE S. BOYNTON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (x) 22 of the :  
Tax Law for the Year ~~(xxxxxx)~~ 1971.:  
~~(xxxxxx)~~

State of New York  
County of Albany

Bruce Batchelor , 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 8th day of April , 19 77, she served the within  
Notice of Decision by (certified) mail upon Randolph G. Abood, Esq.

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Randolph G. Abood, Esq.  
Burke & Burke, Daniels, Leighton and Reid  
30 Rockefeller Plaza  
New York, New York 10020

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) 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

8th day of April , 1977

Bruce Batchelor

Janet Muel



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

ADDRESS YOUR REPLY TO

April 8, 1977

TELEPHONE: (518) **457-1723**

Ms. Millie S. Boynton  
c/o Burke & Burke, Daniels, Leighton and Reid  
30 Rockefeller Plaza  
New York, New York 10020

Dear Ms. Boynton:

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,

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
MILLIE S. BOYNTON	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year 1971.	:	

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Petitioner, Millie S. Boynton, c/o Burke & Burke, Daniels, Leighton and Reid, 30 Rockefeller Plaza, New York, New York 10020, has filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971. (File No. 1-89181653).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 17, 1976 at 10:45 a.m. Petitioner appeared by Randolph G. Abood, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

#### ISSUE

Was petitioner, Millie S. Boynton, a resident of New York State for income tax purposes during the year 1971?

FINDINGS OF FACT

1. Petitioner, Millie S. Boynton, filed a New York State income tax nonresident return indicating a Florida address for the year 1971. On said return she reported \$25,561.85 income for Federal tax purposes and no income from New York State sources. Petitioner, Millie S. Boynton, requested and received a refund of \$3,000.00 estimated tax previously paid. The Income Tax Bureau held that petitioner, Millie S. Boynton, was a resident of New York State and issued a Notice of Deficiency dated February 24, 1975 in the amount of \$1,469.26 personal income tax due, plus \$251.93 interest, for a sum of \$1,721.19.

2. For many years prior to 1969, petitioner, Millie S. Boynton, and her husband, Harold W. Boynton, owned a home in, and were domiciled in, New Jersey. They also maintained a cooperative apartment in Florida and a summer home in Stamford, New York. In December of 1969, the New Jersey home was sold and, at that time, petitioner, Millie S. Boynton, and her husband, Harold W. Boynton, indicated that they would establish their residence in Stamford, New York.

3. Petitioner's husband, Harold W. Boynton, died in July, 1970, during the time they were residing in Stamford, New York. His will was probated in New York and his estate was administered as a New York estate. Petitioner, Millie S. Boynton, executed a will which was dated September 6, 1970 and, in which, her address was indicated as New York.

4. During the winter of 1970-1971, petitioner, Millie S. Boynton, moved to Florida for her usual winter stay. She spent all of 1971 in Florida except for the summer months when she stayed at Stamford, New York. Petitioner, Millie S. Boynton, also made several trips in 1971 from Florida, to visit her family who lived near the Stamford, New York area.

5. Petitioner, Millie S. Boynton, had no family in Florida. She did not change her will to reflect a Florida address. She did not file a Certificate of Domicile in Florida.

CONCLUSIONS OF LAW

A. That petitioner, Millie S. Boynton, was domiciled in New York during the year 1971 and spent more than 30 days during said year in New York and, therefore, all of her income was subject to New York State personal income tax as income of 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 petition of Millie S. Boynton is denied and the Notice of Deficiency issued February 24, 1975 is sustained.

DATED: Albany, New York  
April 8, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER