

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Mung-Chan & Huei-Mei Ho :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Year 1971. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon Mung-Chan & Huei-Mei Ho, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

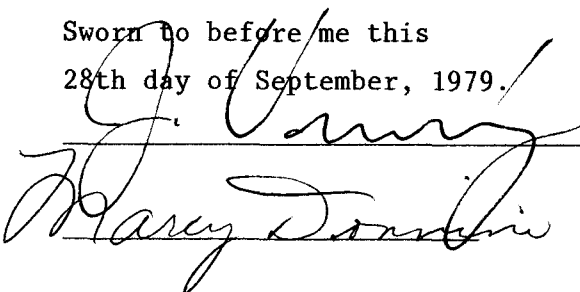
Mung-Chan & Huei-Mei Ho
1215 N. Alpine Rd.
Rockford, IL 61107

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this

28th day of September, 1979.



Mary Donahue



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

STATE TAX COMMISSION

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

Mung-Chan & Huei-Mei Ho
1215 N. Alpine Rd.
Rockford, IL 61107

Dear Mr. & Mrs. Ho:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE TAX COMMISSION

In the Matter of the Petition :
of :
MUNG-CHAN HO and HUEI-MEI HO : DECISION
:
for Redetermination of a Deficiency or
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year
1971. :

On July 24, 1978, petitioners advised the State Tax Commission, in writing, that they desired to waive a small claims hearing and to submit the case to the State Tax Commission, based on the entire record contained in the file.

Whether petitioners were resident individuals of New York State during all of 1971.

1. Petitioners, Mung-Chan Ho and Huei-Mei Ho, timely filed a New York State Income Tax Resident Return for 1971, on which they subtracted \$5,358.00. They noted on page 2 of the return that said amount constituted wages earned in Ohio, and that it was not attributable to New York State. Petitioners did not indicate on line c,

page 1, of the tax return that they were part-year residents, nor did they prorate deductions and the statutory credit. Petitioners did not file a New York State personal income tax return for the previous year, 1970.

2. The Income Tax Bureau issued a Statement of Audit Changes to them, on which it contended that petitioners were residents of New York State for the entire year. Accordingly, on October 28, 1974, the Income Tax Bureau issued a Notice of Deficiency against them for \$195.75 in personal income tax, plus \$29.78 in interest, for a sum of \$225.53.

3. Wage and tax statements attached to petitioners' tax return disclosed that the aforementioned sum of \$5,358.00 was earned in the State of Ohio. Petitioners' Federal itemized deduction indicated that expenses were incurred in New York and Ohio. Petitioners moved to New York State in July of 1971.

CONCLUSIONS OF LAW

A. That petitioners were resident individuals of New York State for the six-month period beginning in July of 1971.

B. That petitioners' tax is computed by including only New York income as reported, prorating exemptions and the statutory credit to their period of New York State residence, and apportioning Federal itemized deductions to the period of residence, in accordance with section 654 of the Tax Law as follows:

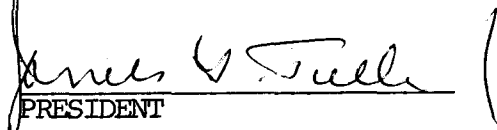
New York State Income	\$7,223.00	
New York Deductions	3,352.00	
Balance	\$3,871.00	
Exemptions (1/2 of \$1,300.00)	650.00	
New York Taxable Income	\$3,221.00	
Tax		\$88.84
Statutory Credit (1/2 of \$25.00)		12.50
Personal Income Tax Due		<u>\$76.34</u>

C. That the petition of Mung-Chan Ho and Huei-Mei Ho is granted to the extent shown in Conclusions of Law "A" and "B". The Income Tax Bureau is hereby directed to reduce the personal income tax shown due on the Notice of Deficiency issued October 28, 1974 from \$195.75 to \$76.34, together with such additional interest as may be lawfully owing.

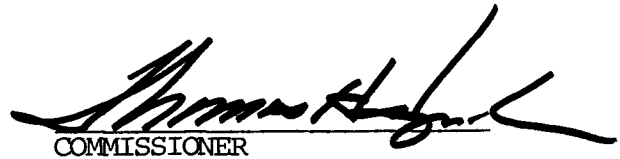
DATED: Albany, New York

SEP 28 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER