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Income Tax Determinations
BUREAU OF LAW

MEMORANDUM

A-2
Gornick, Julius

TO: Mr. Rook

FROM: E. H. Best, Counsel

SUBJECT: In the Matter of Julius Gornick
Proposed Determination
Proposed letter for Commissioner
Murphy's signature

Enclosed herein please find determination of the Tax Commission sustaining the assessment and proposed letter from Commissioner Murphy addressed to the taxpayer advising him thereof. It is important that this letter be sent only if the Commission approves and signs the proposed determination. The letter has been left undated for such reason.

As soon as the determination is signed and the letter sent, please return the signed determination together with the entire file to the Law Bureau for further processing.

Edward H. Best
Counsel

MS:mg
Enc.

January 18, 1967



JOSEPH H. MURPHY
COMMISSIONER OF TAXATION AND FINANCE
PRESIDENT TAX COMMISSION

STATE OF NEW YORK
DEPARTMENT OF
TAXATION AND FINANCE
ALBANY

January 30, 1967

Mr. Julius Gornick
33-43 168th Street
Flushing, New York 11358

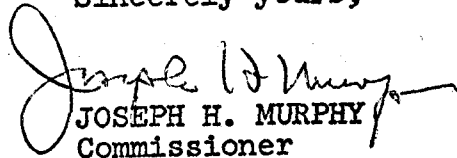
Dear Mr. Gornick:

Your letter to Governor Rockefeller with respect to a notice of deficiency issued against you for the year 1963 has been referred to me for reply.

After carefully reviewing the record in the formal hearing, the State Tax Commission has determined that you were a resident for the entire year. A formal determination to that effect will be mailed to you shortly.

Further, since you are not entitled any refund for the year 1963, your wife was not entitled to a credit on her return for such refund and the notice of claim issued against your wife for such amount was proper.

Sincerely yours,


JOSEPH H. MURPHY
Commissioner

MS:bdg

APPROVED: EHB

cc The Honorable Alton G. Marshall

Mr. Rook ✓

Mr. Gallman

XERO
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ALTON G. MARSHALL
EXECUTIVE OFFICER
TO THE GOVERNOR

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY

in 74 (for)
M. Doyle
INCOME TAX BUREAU

JAN 16 1967

OFFICE OF THE
DIRECTOR

January 12, 1967

Dear Commissioner Murphy:

The enclosed correspondence is forwarded for your recommendation and advice as to how it should be handled.

Please return the correspondence and your advice as to handling to this office within a week.

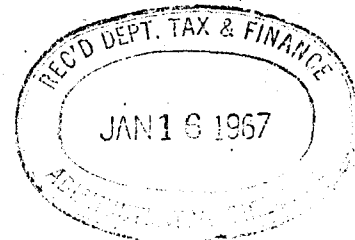
The name of your staff member to be contacted, if any additional information is needed, should be indicated in the upper right-hand corner of the report.

Sincerely,

Enc. correspondence from:

Mr. Julius Gornick
33-43 168th Street
Flushing, New York 11358

1/3/67



NEW YORK STATE
INCOME TAX BUREAU

JAN 16 1967

OFFICE OF THE
DIRECTOR

Julius Gornick
33-43 168th St.
Flushing, N. Y. 11358
January 3, 1967

REC'D
DEPARTMENT OF
TAXATION AND FINANCE

JAN 17 1967

LAW BUREAU

The Honorable Nelson A. Rockefeller,
Governor of the State of New York,
Albany 1, N. Y.

Dear Sir:

Please note the enclosed letter to Mr. Murphy.

The Tax Commission is adding injury to insult.

Our rights are being violated.

We will not shut up. Our voices will only become louder.

We insist on immediate and proper action.

Sincerely,

Julius Gornick

Julius Gornick

Julius and Anna Gornick
33-43 168th Street
Flushing, N. Y., 11358
January 3, 1967

State of New York Tax Commission,
Albany 1, N. Y.
Mr. Joseph H. Murphy, President.

Dear Sir:

Reference A: Div. No. 85-R Audit Change, File No. 3-8507006,
dated 7-17-64, for 1963, against Julius Gornick of above address.

Reference B: Notice and Demand for Payment Account No. AD 37775,
File No. 3-8507007, dated 8-3-64, for 1963, against Anna Gornick of
above address.

Reference C: Warrant N. Y.-530272 issued by the Collection Bureau,
250 Bdway., N. Y. City, dated Dec. 16, 1966, in relation to Ref. B,
filed at Queens County Dec. 21, 1966, seizing Anna Gornick's property
by judgement.

1. Your claims made in references A, B, & C are entirely fraudulent. Ex-
tortion was attempted at the second hearing on Ref. A. Collusion is indicated.
2. On Oct. 7, 1966 and on Oct. 18, 1966, I wrote to the Governor requesting
an investigation of the Income Tax Section of your Department. I have re-
ceived no acknowledgements. On Oct. 29, 1966, I reported my findings con-
cerning your Income Tax Section to the District Attorney's Office of
New York County, and again requested an investigation. I received a courteous
promise and no action that I know of.
3. Ref. C appears to be an effort to shut us up and coerce us into, for-
getting about the necessity for an investigation.
4. Ref. A is an illegal action because it is contrary to all the facts
in this case and contradicts your own findings for other years before and
since under identical circumstances. Ref. A is additionally illegal in that
you held a trial but forgot to invite me to it, found me guilty, and then
offered me the chance to appeal to my executioners after they had already
executed me. Ref. B is an outgrowth of Ref. A. and is illegal for the same
reasons. Ref. C is an outgrowth of both of them and a seizure of Anna Gornick's
property without due process of law. You may claim that your actions to date
are in accordance with your Tax Law, but since your actions are anti consti-
tutional, then we may conclude that so is your Tax Law.
5. References A, B, and C are all distinct violations of our Civil Rights
as guaranteed us by the Bill of Rights and Constitution of the U. S. Your
latest action embodied in Ref. C spells out clearly tyranny and dictatorship,
something we will not tolerate.
6. Therefore we intend to withhold any Balance Due payments on our tax
reports that will be filed on or before April 15, 1967, on our 1966 earnings.
7. We regret that we are forced to take such directly defiant action
against you.
8. We congratulate you on your success in converting us, the most
meticulously honest pair of taxpayers you've ever had, into a pair of tax
rebels.
9. New York City, being a political and geographic subdivision of
New York State which is acting as a dictatorship, will receive the same tax
treatment as in paragraph 6 above. We will not support any division of a
dictatorship.

10. The United States includes New York State within its boundaries. Therefore the IRS will receive the same tax treatment as in paragraph 6 above. We will not support a government that harbors or condones a dictatorship within its borders.

11. You have until February 28th, 1967, to send us an answer that we can accept as an attempt at dispensing justice rather than edicts stemming from ouija board findings. Your answer, to be acceptable, must include the following points:

a. A statement showing clearly what steps you are taking to end your dictatorial methods and actions.

b. An immediate final and complete ending of all action against us on References A, B, & C.

c. A statement explaining how your decisions were made, sources of information, etc. If you cannot furnish any logical explanation, an apology in lieu of it will be acceptable.

d. A statement showing clearly what steps you are taking to clean your house of graft and corruption.

e. A statement showing clearly what steps you are taking towards future prevention of fiascos of the kind embodied in References A, B, & C.

f. A statement that you are making provision to compensate us for losses and expenses resulting from References A, B, & C.

12. Copies of this letter are being sent to the Governor and also appropriate subordinate officials of your Commission.

13. Your failure to comply with our request contained in paragraph 11 above, will cause us to extend this embroilment of your making, by sending copies of this letter to the President and Mayor and also to appropriate departments of the Federal and New York City governments. It will also result in our carrying out actions to the letter as promised in paragraphs 6, 9, & 10 above.

Sincerely,

Julius Gornick

Julius Gornick
for Julius and Anna Gornick

BUREAU OF LAW

MEMORANDUM

TO: Commissioners Murphy, Macduff and Conlon

FROM: Solomon Sies, Hearing Officer

SUBJECT: Petition of Julius Gornick for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1963

A hearing was held with reference to the above matter at the office of the State Tax Commission, 80 Centre Street, New York, New York on November 1, 1966. The appearances were as noted on the transcript of the record.

The issue involved whether the taxpayer was a resident in 1963, as defined by section 605 of the Tax Law.

Taxpayer filed two returns for 1963, a resident return, form IT-201 on which he reported income of \$3,590.18 and a tax overpayment of \$25.28, and a non-resident return, form IT-203 on which he reported New York income of \$609.01 out of a total of \$8,528.13 and no tax. On his resident return taxpayer stated his address as 33-43 168th Street, Flushing, New York. On both returns he stated that his wife Anna Gornick, was filing a separate resident return for the entire year; that her address was 33-43 168th Street, Flushing, New York, and that he was a New York resident from January 1, 1963 to April 21, 1963.

By statement of audit changes dated February 8, 1965 taxpayer's New York income was computed at \$12,118.31, based on a finding that he had retained his New York domicile and had remained a resident.

Taxpayer contends that he changed his domicile in April 1963 to New London, Connecticut and that he was required by his employer to live in Connecticut or Rhode Island.

Taxpayer and his wife are the fee owners of a one-family dwelling at 33-43 168th Street, Flushing, New York, acquired by them in 1952. In May of 1963 taxpayer accepted employment with Electric Boat Co., a subsidiary of General Dynamics, at Groton, Connecticut, and rented a furnished apartment in New London. Taxpayer's wife remained at their home in New York. On weekends and holidays, taxpayer would return to his home in New York or his wife would visit him in Connecticut. Taxpayer's personal property,

furniture and household effects remained in New York except for clothing and similar personal effects he needed in Connecticut. It is not claimed by the taxpayer that his wife's domicile was changed during this period. She continued in her employment in New York, and a joint Federal tax return was filed for 1963, giving as their address, their home in New York. Although taxpayer was offered a \$350.00 allowance by his employer "for relocation of your household furnishings to the Groton area" he did not relocate during the year and two months he was employed, and chose "to accept other employment nearer home" (see Tax Commission exhibit "F" - letter of General Dynamics dated October 13, 1964 addressed to taxpayer). On termination of his employment in Connecticut, taxpayer returned to New York.

It appears clearly that taxpayer did not give up his New York domicile when he went to Connecticut. He retained his New York home, he returned to it from time to time, his wife continued to live there, and he used the New York address for his Federal tax returns. He did not accept his Connecticut employer's offer of a relocation allowance, but returned to his home in New York. A finding that taxpayer maintained a permanent place of abode in New York was confirmed under similar circumstances in People ex. rel. Mackall v. Bates, 278 App. Div. 724, 103 N.Y.S. 2d 31.

I am of the opinion, therefore, that pursuant to section 605(a) of the Tax Law the taxpayer was a resident during 1963, and that for the reasons stated above, the notice of deficiency should be sustained.

The decision of the Tax Commission in this matter should be substantially in the form submitted herewith.

Dated: January 4, 1967

/s/

SOLOMON SIES

Hearing Officer

Approved M.S.
S.H.

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

JULIUS GORNICK

**FOR A REDETERMINATION OF A
DEFICIENCY OR FOR REFUND OF
PERSONAL INCOME TAXES UNDER
ARTICLE 22 OF THE TAX LAW FOR
THE YEAR 1963**

Julius Gornick, the taxpayer herein, having duly filed a petition for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1963, and a hearing having been held at the office of the State Tax Commission at 80 Centre Street, New York, New York on November 1, 1966, at which hearing the taxpayer appeared in person, and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer filed a resident tax return for 1963 on which he reported income of \$3,590.18 and a tax overpayment of \$25.28 and a non-resident return for 1963 on which he reported New York income of \$609.01 out of total income of \$8,528.13, and no tax; that by notice of deficiency and statement of audit changes dated February 8, 1965 the Income Tax Bureau recomputed taxpayer's New York income at \$12,118.31 and a deficiency of tax of \$407.15, on the ground that taxpayer was a resident of

the State of New York for the entire year.

(2) That in 1963 the taxpayer was an engineer residing with his wife in a home owned jointly by both, in Queens County, New York; that until April 1963 taxpayer was employed in New York and spent more than 30 days within the state; that on April 21, 1963 the taxpayer accepted employment in Connecticut and rented temporary living quarters in Connecticut; that taxpayer would return regularly to his home in New York which was continuously occupied by his wife, and where his personal property remained; that taxpayer did not accept an allowance of \$350.00 offered by his Connecticut employer to relocate; that in July of 1964 taxpayer terminated his employment in Connecticut and accepted employment in New York, returning to his home in Queens County, and that for 1963 taxpayer and his wife filed a joint Federal income tax return from the Queens County, New York address.

Based upon the foregoing findings, the State Tax Commission hereby

DECIDES

(A) That during the entire year of 1963 the taxpayer Julius Gornick was domiciled in New York and maintained a permanent place of abode in New York; that taxpayer spent more than 30 days during the taxable year within the state, and was a resident of New York within the provisions of section 605(a) of the Tax Law.

(B) That, accordingly, the notice of deficiency imposing additional taxes upon the taxpayer for 1963 is correct; that the said notice of deficiency does not include any tax or other charges which could not have been lawfully demanded and that taxpayer's

petition for a redetermination or refund with respect thereto
be and the same hereby is denied.

Dated: Albany, New York the 30th day of January 1967.

STATE TAX COMMISSION

/s/ JOSEPH H. MURPHY
PRESIDENT

/s/ JAMES R. MACDUFF
COMMISSIONER

/s/ WALTER MACLYN CONLON
COMMISSIONER