

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

BUREAU OF LAW

MEMORANDUM

*Toms, Ann and
Robert C.*

TO: Commissioners Murphy, Macduff and Conlon

FROM: Vincent P. Molineaux, Hearing Officer

SUBJECT: Robert C. and Ann Toms
164 East Genesee Street
Skaneateles, New York

Robert C. Toms
Assessment Nos. SIB-12756 through SIB-12763
Tax Years 1951 through 1959

Robert C. and Ann Toms
Notice of Deficiency for the year 1960
File #3-8802085

A hearing on the above matters was held before me at 80 Centre Street, New York, New York on August 22, 1966.

The question at issue is whether petitioners were residents of the State of New York for income tax purposes for the years assessed. No returns were filed for the years 1951 through 1960.

For all of the years in question petitioner, Robert C. Toms, was employed by Ohio Thermometer Company of Springfield, Ohio and traveled extensively throughout the United States. He purchased a residence at 164 East Genesee Street, Skaneateles, New York in 1937, which he owns to the present time and where he now resides. At the time of purchase, petitioner and his then wife took up residence there with their daughter who attended school in Skaneateles. The taxpayer and his first wife were divorced in 1940 and the wife re-moved to Florida taking their daughter with her.

During the years 1951 to 1956 and previous to that time, petitioner rented a furnished room and bath in Springfield, Ohio. From 1956 to some time in 1961 whenever he was in Springfield, Ohio, petitioner stayed at the Shawnee Hotel but did not maintain a room there during his absence. The days which petitioner stayed at the Shawnee Hotel were spent at the plant of Ohio Thermometer Company.

Petitioner married his present wife, a resident of Ohio, in 1943, in Atlantic City, New Jersey. She traveled with him throughout the United States until 1952, at which time their daughter was born at Skaneateles, and the present Mrs. Toms

(Anna Toms) has made her home there continuously since that time, and petitioner's free time other than when on the road or in Springfield on business at the plant was spent in Skaneateles.

For the reasons stated above, it is my opinion that petitioner was domiciled in the State of New York from 1937 to the present time, that he maintained a permanent place of abode in New York and did not maintain a permanent place of abode outside of the State of New York for the years 1951 to 1960, and spent more than thirty days of each taxable year in the State of New York (minutes, pages 16, 17 and 20), that the assessments are therefore correct and that the decisions of the Tax Commission in the above matter be substantially in the form submitted herewith.

Vincent P. Keshen
Hearing Officer

January 25, 1967
VPM:aw
Encs. (Feb. 14, 1967)

Martin Schapiro
Approved

Saul Hochman
Approved

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE PETITION

OF

ROBERT C. TONE AND ANN TONE

**FOR REDETERMINATION OF A DEFICIENCY
UNDER ARTICLE 22 OF THE TAX LAW FOR
THE YEAR 1960**

Robert C. Tone and Ann Tone having filed a petition for redetermination of a deficiency of personal income tax under Article 22 of the Tax Law for the year 1960, and a hearing having been held at the office of the State Tax Commission in the State Office Building, Syracuse, New York on the 22nd day of August 1966 before Vincent P. Malinoux, Hearing Officer of the Department of Taxation and Finance, and the taxpayers having appeared in person and been represented by William J. Mackay, Esq., 715 Low Building, Syracuse, New York and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers did not file a New York State income tax return for the year 1960.

(2) That for the year in question taxpayer, Robert C. Tone, was employed by the Ohio Thermometer Company of Springfield, Ohio and traveled extensively throughout the United States.

(3) That prior to 1937 taxpayer, Robert C. Tone, resided together with his former wife and their daughter in a house located in Springfield, Ohio which the taxpayer and his former wife owned by inheritance.

(4) That taxpayer, Robert C. Tone, purchased a house at 164 East Seneca Street, Bantam, New York in 1937 which he came to

the present time and which has never been rented; that upon purchase, taxpayer and his former wife moved to their New York house together with their daughter who then attended school in Skaneateles, New York; that the Ohio house was then rented and eventually sold prior to 1950.

(5) That the taxpayer, Robert C. Toms, and his former wife were divorced in 1940, and the former wife moved to Florida taking the daughter with her.

(6) That taxpayer, Robert C. Toms, and his present wife, Ann Toms, were married in 1943; that after marriage and until 1950, at which time a daughter was born to them at Skaneateles, New York, the taxpayer and his wife traveled extensively throughout the United States; that during such travels the house in Skaneateles was closed, but was opened and occupied by the taxpayer and his wife for at least 30 days in each year prior to 1952; that at the birth of their daughter the house was opened permanently, and the taxpayer's wife has made her home there continuously since such time.

(7) That taxpayer, Robert C. Toms, also rented a furnished room and bath in Springfield, Ohio from 1953 to 1956; that after that time, when he was at Springfield, Ohio, he stayed at the Shumaco Hotel but did not maintain a room there during his absence; that the days in Springfield, Ohio were spent at the plant of the Ohio Thermometer Company.

(8) That since 1952 taxpayer Robert C. Toms' free time of approximately 10 days per month was spent in Skaneateles, New York; that of the other days were spent either on the road or at the plant of the Thermometer Company at Springfield, Ohio.

Based upon the foregoing findings and all of the evidence

presented herein, the State Tax Commission hereby

DETERMINES:

(A) That the petitioners were domiciled in the State of New York and maintained a permanent place of abode in New York and did not maintain a permanent place of abode outside of the State of New York, and spent more than thirty days of the taxable year in the State of New York for all of the years at issue.

(B) That the notice of deficiency determining income tax for the year 1960 is correct and is hereby affirmed, together with any additional interest and other amounts which may be lawfully due and owing thereon.

(C) That the taxpayer, Robert G. Tans' petition for redetermination of deficiency for the year 1960 be and the same is hereby denied.

Dated: Albany, New York, the 3rd day of March , 1967 .

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

President

/s/

JAMES R. MACDUFF

Commissioner

/s/

WALTER MACLYN CONLON

Commissioner

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

ROBERT G. TONE

**FOR REVISION OR REFUND OF PERSONAL
INCOME TAXES UNDER ARTICLE 14 OF
THE TAX LAW FOR THE YEARS 1951,
1952, 1953, 1954, 1955, 1956, 1957
AND 1959**

Robert G. Tone having filed an application for revision or refund of assessments SIB-12756, 57, 58, 59, 60, 61, 62, and 63 for the years 1951, 1952, 1953, 1954, 1955, 1956, 1957 and 1959 in the respective amounts of \$4,912.78, \$5,647.49, \$3,962.24, \$3,225.14, \$2,077.95, \$4,332.53, \$6,229.97 and \$8,637.40 and a hearing having been held in connection therewith at the Office of the State Tax Commission in the State Office Building, Syracuse, New York on the 22nd day of August 1966 before Vincent P. Molineaux, Hearing Officer of the Department of Taxation and Finance, and the taxpayer having appeared in person and been represented by William J. Mackay, Esq., 715 Lee Building, Syracuse, New York and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayer, Robert G. Tone, did not file New York State income tax returns for the years 1951, 1952, 1953, 1954, 1955, 1956, 1957 and 1959.

(2) That for all of the years in question taxpayer was employed by the Ohio Thermometer Company of Springfield, Ohio and traveled extensively throughout the United States.

(3) That prior to 1937 taxpayer resided together with his former wife and their daughter in a house located in Springfield, Ohio which the taxpayer and his former wife owned by inheritance.

(4) That taxpayer purchased a house at 164 East Genesee Street, Skaneateles, New York in 1937 which he owns to the present time and which has never been rented; that upon purchase, taxpayer and his former wife moved to their New York house together with their daughter who then attended school in Skaneateles, New York; that the Ohio house was then rented and eventually sold prior to 1950.

(5) That the taxpayer and his former wife were divorced in 1940, and the former wife moved to Florida taking the daughter with her.

(6) That taxpayer and his present wife, Ann Toms, were married in 1943; that after marriage and until 1952 at which time a daughter was born to them at Skaneateles, New York the taxpayer and his wife traveled extensively throughout the United States; that during such travels the house in Skaneateles was closed, but was opened and occupied by the taxpayer and his wife for at least 30 days in each year prior to 1952; that at the birth of their daughter the house was opened permanently, and the taxpayer's wife has made her home there continuously since such time.

(7) That taxpayer also rented a furnished room and bath in Springfield, Ohio from 1955 to 1956; that after that time, when he was at Springfield, Ohio, he stayed at the Shawnee Hotel but did not maintain a room there during his absence; that the days in Springfield, Ohio were spent at the plant of the Ohio Thermometer Company.

(8) That since 1952 taxpayer's free time of approximately 10 days per month was spent in Shenandoah, New York; that of the other days were spent either on the road or at the plant of the Thermometer Company at Springfield, Ohio.

Based upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

DETERMINE:

(A) That petitioner was domiciled in the State of New York and maintained a permanent place of abode in New York, and did not maintain a permanent place of abode outside of the State of New York, and spent more than thirty days of the taxable year in the State of New York for all of the years at issue.

(B) That, therefore, assessments EIB-12756, 57, 58, 59, 60, 61, 62 and 63 are correct and valid and the application for revision is denied.

Dated: Albany, New York, the 3rd day of March, 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

President

/s/

JAMES R. MACDUFF

Commissioner

/s/

WALTER MACLYN CONLON

Commissioner