

Vogel
P.I. - 1970

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
:
of
:
Joseph R. Vogel & Lena L.
Vogel
:
For a Redetermination of a Deficiency or
a Refund of Personal Income
:
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1963
:

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 29th day of December , 19 70, she served the within Notice of Decision (or Determination) by (certified) mail upon Joseph R.

Vogel & Lena L. Vogel (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Paul C. Washburn
205 Worth Avenue
Palm Beach, Florida

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 Post Office Department within the State of New York.

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

29th day of December, 1970.

James S. Allen

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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of

Joseph R. Vogel &
Lena L. Vogel

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Tax Law for the (Year(s) 1963

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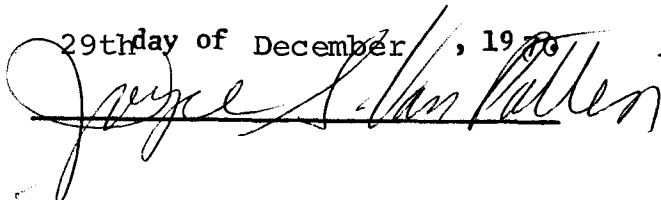
Martha Funaro, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 29th day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Joseph R. Vogel & Lena L. Vogel (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph R. Vogel & Lena L. Vogel
167 Seagate Road
Palm Beach, Florida

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 Post Office Department within the State of New York.

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

29th day of December, 1970





STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
JOSEPH R. VOGEL AND
LENA L. VOGEL
for Redetermination of Deficiency
or for Refund of Personal Income
Tax under Article 22 of the Tax
Law for the Year 1963

DECISION

Joseph R. Vogel and Lena L. Vogel have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1963 (File number 3-8472188). A formal hearing was held before Alfred Rubenstein, Hearing Officer, in the offices of the State Tax Commission, Blg. 9, State Campus, Albany, New York, on August 28, 1967 at 2:10 P.M. Petitioners appeared by Paul C. Washburn, Esq.

FINDINGS OF FACT

1. Petitioners, Joseph R. Vogel and Lena L. Vogel, filed a joint New York State income tax resident return for the period January 1, 1963 to July 31, 1963 and a joint New York State nonresident return for the period from August 1, 1963 to December 31, 1963.
2. On February 8, 1965, the Income Tax Bureau of the State Tax Commission issued a Notice of Deficiency of income tax of \$18,005.88 plus \$881.25 interest for the year 1963, predicated upon the failure of petitioners to include in their New York State income tax nonresident return for the period from August 1, 1963 to December 31, 1963 a capital gain of \$425,360 received by the petitioner Joseph R. Vogel on September 13, 1963 from the Metro-Goldwyn-Mayer profit-sharing trust.
3. That the petitioner, Joseph R. Vogel, was an employee of Metro-Goldwyn-Mayer, Inc., and its affiliated companies from 1909 to August 31, 1963, when he retired, and that during the period of said employment he was at all times a resident of and domiciled in New York State.

4. That on September 13, 1963, petitioner Joseph R. Vogel, at his option, received a payment of \$425,360 from the Metro-Goldwyn-Mayer profit-sharing trust and that he had not made any contribution to said trust fund.

CONCLUSIONS OF LAW

A. That petitioners, Joseph R. Vogel and Lena L. Vogel were at all times residents of and domiciled in the State of New York up to and including July 31, 1963.

B. That the amount of \$425,360 paid to petitioner Joseph R. Vogel on September 13, 1963 was derived from his employment by Metro-Goldwyn-Mayer, Inc., from 1909 to 1963 while he was a resident of and domiciled in New York State and was subject to New York State income tax for the year 1963.

C. Accordingly, the petition is denied and the Notice of Deficiency dated February 8, 1965 is sustained.

DATED: Albany, New York
December 23, 1970

STATE TAX COMMISSION

Norman Galloran
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Koerner
COMMISSIONER