

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RAYMOND & GRACE KAROL

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) 1965

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

State of New York
County of Albany

Rae Zimmerman, 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 20th day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Raymond and Grace Karol (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Raymond and Grace Karol
800 Beech Street
Rome, New York
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

20th day of March, 1972.

Linda Wilson

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RAYMOND & GRACE KAROL

For a Redetermination of a Deficiency or
a Refund of Person'
Taxes under Article(s) of the
Tax Law for the (Year(s))

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

State of New York
County of Albany

Rae Zimmerman , 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 20th day of March , 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Emlyn I. Griffith, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Emlyn I. Griffith, Esq.
Griffith & Pileckas, Esqs.
225 N. Washington Street
Rome, New York 13440
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

20th day of March , 1972

Linda Wilson

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 20, 1972

Raymond and Grace Karol
800 Beech Street
Rome, New York

Dear Sir and Madam:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **four months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RAYMOND & GRACE KAROL	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1965.	:	

Raymond and Grace Karol petitioned for a redetermination of a deficiency or for refund of personal income taxes for the year 1965. A hearing was held at the offices of the State Tax Commission, Utica, New York, on November 17, 1970, before L. Robert Leisner, Hearing Officer. The Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

I. Where the taxpayer Raymond Karol transferred, as a civilian worker for the Air Force from Rome, New York, to Oklahoma City on January 31, 1965, and his family remained in New York State, did Raymond Karol change his domicile and was his income earned in Oklahoma subject to New York State income tax under section 605 of the Tax Law?

FINDINGS OF FACT

1. Petitioners timely filed separate New York State income tax returns for 1965 on Form IT 208.
2. The Income Tax Bureau denied the refund claim of Grace S. Karol and asserted a deficiency against Raymond Karol.
3. The taxpayers each timely filed petitions for a redetermination of a deficiency or for refund of personal income tax for the year 1965 on the grounds that income earned by Raymond Karol in Oklahoma was not subject to New York income tax because he had changed his domicile to Oklahoma and he was not a New York resident under section 605 of the Tax Law.

4. Raymond Karol for many years was employed as a civilian by the United States Air Force at Rome Air Material Command (ROMA) in New York State. This Material Command was changed to the Oklahoma City Air Material Command and in order to keep his position and his 20 or 25 years of benefits, Raymond Karol transferred to the Oklahoma City Air Material Command (OCAMA) in 1965. Raymond Karol was present in New York State until January 31, 1965.

5. Raymond Karol could not find a comparable job in the Rome, Utica area. The Karol's had just purchased a home at Rome, New York.

6. Approximately five or six thousand civilian ROMA employees have transferred out of the state since 1965. The Karol's listed their home for sale but would have suffered a great loss because of the depressed market.

7. Mrs. Karol continued her work for ROMA but took a downgrade and lost financially.

8. Raymond Karol leased an apartment in Midwest City, Oklahoma. He registered his automobile in Oklahoma in 1965. He paid a State income tax to Oklahoma in 1965 and thereafter. Raymond Karol did not vote in the State of New York in 1965 or thereafter.

9. In April, 1965, Mrs. Karol and their two daughters made a trip to Oklahoma during the Easter school vacation to look the situation over.

10. The taxpayers, after this visit of Mrs. Karol and the children to Oklahoma and after looking at the situation in Oklahoma and considering the situation, decided that Mrs. Karol and the children would stay at their home in Rome until both daughters had graduated from high school.

11. At Christmas, 1965, Mr. Karol returned to Rome for a visit of two weeks with his wife and daughters at their home in Rome, New York.

12. There has never been any separation or divorce and Mr. Karol regularly sends funds to his family in Rome.

13. In November, 1970, Mrs. Karol continued to work for the Air Force and live at their home in Rome, New York and Mr. Karol continued to work for OCAMA and live in Oklahoma in order to keep his position and his 20 or 25 years of benefits. The situation continued because of the uncertainties with respect to their work, the sale of their home in Rome and the education of their children in New York State.

CONCLUSIONS OF LAW

A. Raymond Karol was domiciled in the State of New York and spent more than thirty days in the State of New York in 1965.

B. The petitions of Raymond Karol and Grace S. Karol are denied. The determination of the deficiency against Raymond Karol and the denial of a refund to Grace S. Carol, both for the year 1965, are sustained.

C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York

STATE TAX COMMISSION

March 20, 1972

Norman Gallman
COMMISSIONER

Bruce Manly
COMMISSIONER

Milton Kvein
COMMISSIONER