



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227
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
May 3, 1972

Ralph D. Sylvia
Windham College
Putney, Vermont

Dear Mr. Sylvia:

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

Please take further notice that pursuant to section(s)
690 of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **4 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 relating 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 :
RALPH D. SYLVIA : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year :
1965.

The petitioner, Ralph D. Sylvia, filed a petition for redetermination of a deficiency and for refund of personal income tax for the year 1965. The petitioner submitted the case for a decision on information in the file.

ISSUES

1. Was the petitioner a resident of New York?
2. Was all of the petitioner's income from inside and outside the State of New York subject to New York tax?
3. Where the petitioner, a nonresident, was paid \$6,478.52 by the State of New York for work done in New York, may the petitioner use an allocation of days worked in and out of New York State to reduce his New York income to \$4,911.23?

FINDINGS OF FACT

1. Petitioner timely filed a New York State nonresident income tax return for the year 1965.
2. A Notice of Determination of Deficiency in income tax was issued under File No. 49110111 against the taxpayer. He timely filed a petition for redetermination of a deficiency and for a refund.
3. The taxpayer was a resident of the State of Massachusetts residing at his home which he built on Lagoon Rd., Oak Bluffs, Mass. in 1961.

4. The taxpayer did not own real property or vote in New York State.

5. The taxpayer rented an apartment from September 1964 to June 1965 while a teacher at Oneonta and worked four days a week during a 30-week school year. The taxpayer spent less than one hundred and twenty days in New York State in the calendar year 1965.

6. The taxpayer had total income of \$9,213.63 for the year 1965, of which \$6,478.52 was paid to him by the State of New York while teaching in New York State.

7. The taxpayer contended that he should allocate his total income of \$9,213.63 by an allocation of days worked in and out of New York State, he contended that only $121/227$ of his total income or \$4,911.23 was taxable and that he was entitled to a refund of \$118.54.

8. The Income Tax Bureau rejected the refund claim and contended that the taxpayer was a resident for the entire year. The Income Tax Bureau determined that all of taxpayer's income of \$9,213.63 was subject to New York tax and that there was tax due of \$7.93.

CONCLUSIONS OF LAW

A. The allocation formula proposed by the petitioner is denied.

B. The petitioner was neither a domiciliary nor a resident individual of New York State during the year 1965. The determination of the Income Tax Bureau is set aside.

C. It is determined that the petitioner's income of \$6,478.52, paid to him by the State of New York, for work done in the State,

is subject to New York tax and that his deductions shall be allocated on the basis of the proportion that his New York income bears to his total income. The tax shall be recomputed in accord with this decision.

DATED: Albany, New York

May 3, 1972

STATE TAX COMMISSION

Thomas Gallman

COMMISSIONER

Bruce Mauley

COMMISSIONER

Milton Kerner

COMMISSIONER