

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY W. and EVELYN R. ZIMMERMAN

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) 1966 and
1967

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 5th day of December, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon STANLEY W. and
EVELYN R. ZIMMERMAN (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Stanley W. and Evelyn R. Zimmerman
102 Valley Road
Ithaca, New York 14850

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

5th day of December, 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
December 5, 1972

Stanley W. and Evelyn R. Zimmerman
102 Valley Road
Ithaca, New York 14850

Dear Mr. and Mrs. Zimmerman:

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 **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 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 :
STANLEY W. and EVELYN R. ZIMMERMAN : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Years 1966 and 1967. :

The taxpayers petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1966 and 1967.

A formal hearing was held at the offices of the State Tax Commission, Binghamton, New York, on September 14, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer, Stanley W. Zimmerman, appeared personally, and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Were the taxpayers, who lived in California during part of each year, nonresidents during 1966 and 1967 within the meaning of the Tax Law?

FINDINGS OF FACT

1. Petitioners timely filed New York State resident income tax returns for the years 1966 and 1967 in which they subtracted income earned in California.

2. A Notice of Determination of deficiencies in income taxes for the years 1966 and 1967 was issued on February 24, 1970, against the taxpayers under File No. 79246858, which deficiency was based on taxpayers being residents of New York State.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. Stanley W. Zimmerman, a professor of electrical engineering received a sabbatical leave from Cornell University in 1966 and 1967.

5. On June 5, 1966, Stanley W. Zimmerman went to California. Later in the month the family moved also.

6. The Zimmermans owned their own home at Ithaca, New York. When they moved, they rented their home at Ithaca.

7. Mr. Zimmerman was first employed as an engineer at the United States Navy Radiological Defence Laboratory, and when the defence program was cut back, he took work at the Lawrence Radiation Laboratory in Livermore, which ended in August, 1967.

8. In September, 1967 the Zimmermans returned to Ithaca, moving into their home there, and Mr. Zimmerman resumed teaching at Cornell.

9. The taxpayers opened bank accounts in California and investigated the purchase of a home, and other jobs.

10. The taxpayers did not get any California licenses. Mr. Zimmerman drove a Federal Government car, and Mrs. Zimmerman used her New York license.

11. Mr. Zimmerman testified that he had not severed his New York connections with respect to real estate, with respect to academic service, or professional associations. He also stated he had no intention of disposing of his New York property until he became absolutely convinced of the California environment.

CONCLUSIONS OF LAW

A. The taxpayers did not change their domicile. They remained residents of New York State for income tax purposes in 1966 and 1967.

B. The determination of the deficiencies is sustained.

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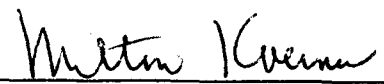
C. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
December 5, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER