

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT B. & ROSEMARY EGGLESTON

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) 1964.

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

State of New York
County of Albany

Lynn Wilson , 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 23rd day of February , 1973 , she served the within Notice of Decision (or Determination) by (certified) mail upon ROBERT B. & ROSEMARY EGGLESTON (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: ROBERT B. & ROSEMARY EGGLESTON
20 Sutherland Drive
Scotia, New York 12302
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

23rd day of February , 1973.

Franklin D. Moore

Lynn Wilson



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
February 23, 1973

Robert B. & Rosemary Eggleston
20 Sutherland Drive
Scotia, New York 12302

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 **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 :
ROBERT B. & ROSEMARY EGGLESTON : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year 1964. :

Taxpayers petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1964.

A formal hearing was held at the offices of the State Tax Commission, Albany, New York, on February 1, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer, Robert B. Eggleston, appeared personally and the Income Tax Bureau was represented by Edward H. Best, Esq. (Solomon Sies, Esq., of Counsel).

ISSUE

Where the taxpayers lived in Germany and worked there early in 1964 prior to returning to New York State, were they residents of New York State for income tax purposes and was all of their income taxable for the entire year 1964?

FINDINGS OF FACT

1. Petitioners, Robert B. and Rosemary Eggleston, timely filed New York State income tax returns for the year 1964.
2. A Notice of Determination of deficiency in personal income tax for the year 1964 was issued on August 15, 1966 against the taxpayers under File No. 29000616.

3. The taxpayers petitioned for redetermination of the deficiency.

4. In 1963, the taxpayers permanently resided in their own home at Syracuse, New York, where Robert Eggleston worked for General Electric and late in 1963 they moved to Germany when Robert Eggleston took a work assignment there. The taxpayers returned to New York State in June or July, 1964 and resided in New York State for the balance of the year. They contended that their income earned in Germany should not be subject to New York State income tax.

5. They retained their home in Syracuse and rented it unfurnished while they were in Germany. They did not know how long they would remain when they went to Germany in the fall of 1963.

6. When they returned to New York State in 1964 they considered going to work for General Electric in Oklahoma, but eventually Robert Eggleston took work with General Electric in Schenectady and they took up residence there. They never did live in their former home in Syracuse. The taxpayer testified that they probably voted in New York State in 1964.

CONCLUSIONS OF LAW

A. Throughout 1964 the taxpayers were domiciled in New York State and they were resident individuals of New York State under section 605 of the Tax Law. All of their income for 1964 was subject to New York income tax.

B. The petition is denied and the determination of the deficiency is sustained.


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

DATED: Albany, New York
February 23, 1973

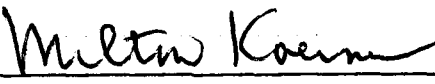
STATE TAX COMMISSION



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