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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
WILLIAM D. ZAHRT, II & PATRICIA M. :
ZAHRT :

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

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) 1969 :

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 9th day of August , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon William D., II &
Patricia M. Zahrt (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. & Mrs. William D. Zahrt, II
179 Goldengate Drive
Centerville, Ohio 45459

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

9th day of August , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Procaccino,
XXXXXXXXXXXX
NORMAN F. GALLMAN, ~~President~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York
August 9, 1973

Mr. & Mrs. William D. Zahrt, II
179 Goldengate Drive
Centerville, Ohio 45459

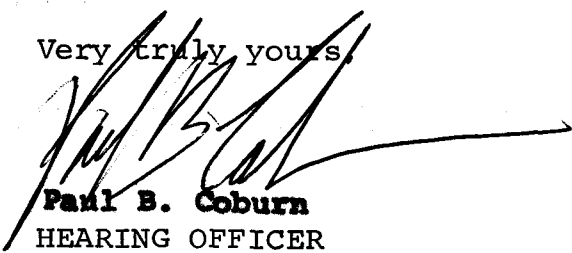
Dear Mr. & Mrs. Zahrt:

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 deci-
sion must be commenced within **4 Months**
from 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 relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,


Paul B. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM D. ZAHRT, II and PATRICIA M. ZAHRT	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	

Petitioners, William D. Zahrt, II and Patricia M. Zahrt, 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 1969. (File No. 9-49110748). On February 5, 1973, petitioners, in writing, waived a formal hearing and consented to the issuance of a decision without the introduction of additional evidence on their part. The State Tax Commission renders the following decision after due consideration of the entire record contained in the file.

ISSUE

Did the Income Tax Bureau properly prorate petitioners, William D., II, and Patricia M. Zahrt's exemptions and statutory credit?

FINDINGS OF FACT

1. Petitioners, William D., II and Patricia M. Zahrt, filed a New York State income tax resident return for the period June 1, 1969 to December 31, 1969. On said return, they did not prorate their exemptions and statutory credits. They filed no other returns but made mention of the fact on the aforesaid return that they had no New York State income during their nonresidency period. The sum of \$248.53 in New York State income tax had been withheld from petitioners, William D., II and Patricia M. Zahrt, by their employers for said period. Petitioners alleged that the tax due was \$80.81 and there was an overpayment of \$167.72.

2. On July 20, 1970, the Income Tax Bureau issued a Statement of Audit Changes prorating petitioners, William D., II and Patricia M. Zahrt's exemptions and statutory credit. The proration was based on 6/12 of a year.

3. On September 24, 1970, the Income Tax Bureau issued a Statement of Refund Adjustment to petitioners, William D., II and Patricia M. Zahrt, granting a refund of \$6.42 for the year 1969. The refund adjustment was based upon a 7/12 proration of their exemptions and statutory credit for said year.

4. On July 26, 1971, the Income Tax Bureau issued a Notice of Disallowance to petitioners, William D., II and Patricia M. Zahrt, disallowing their claim for refund for the year 1969 in excess of \$6.42.

5. Petitioner, William D. Zahrt, II, was a resident and domiciliary of Ohio until May 31, 1969. Petitioner, Patricia M. Zahrt, was a resident and domiciliary of Indiana until the aforesaid date. They became residents and domiciliaries of New York State on June 1, 1969.

CONCLUSIONS OF LAW

A. That petitioners, William D., II and Patricia M. Zahrt, were required to file two income tax returns for their nonresident and resident periods. If no income was derived in New York State during the nonresident period, a statement to that effect in lieu of a return may be made pursuant to section 148.1(b) of the Income Tax Regulations.


B. That the statement attached to the return for the resident period declaring that no New York State income was derived during the nonresident period is considered a return in determining the proper proration figure for exemptions and statutory credit.

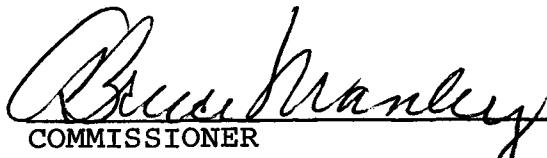
C. That petitioners, William D., II and Patricia M. Zahrt, are required to prorate their exemptions and statutory credit pursuant to section 654(e) of the Tax Law.

D. That the petition of William D., II and Patricia M. Zahrt is denied and the Notice of Disallowance issued July 26, 1971, is sustained.

DATED: Albany, New York
August 9, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER