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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
GARSON KANIN and
RUTH GORDON KANIN
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) 1968.

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 8th day of March, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Michael Halpern, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Michael Halpern, Esq.
Halpern, Morris, Granett & Cowan
1350 Avenue of the Americas
New York, New York 10019
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

8th day of March, 1974
James S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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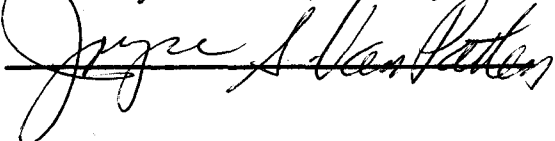
State of New York
County of Albany

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 8th day of March, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Mr. & Mrs. Garson Kanin (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. Garson Kanin
c/o Julius Lefkowitz & Company
1350 Avenue of the Americas
New York, New York 10019
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

8th day of March, 1974.







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
~~SECRETARY TO COMMISSION~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 8, 1974

Mr. & Mrs. Garson Kanin
c/o Julius Lefkowitz & Company
1350 Avenue of the Americas
New York, New York 10019


Dear Mr. & Mrs. Kanin:

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 :
GARSON KANIN and :
RUTH GORDON KANIN : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1968. :

Petitioners, Garson Kanin and Ruth Gordon Kanin, 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 1968. (File No. 8-13184503). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 14, 1972, at 1:15 P.M. and continued on June 21, 1973, at 1:15 P.M. Petitioners appeared by Halperin, Morris, Granett & Cowan, (Michael Halperin, Esq., of Counsel). The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of Counsel).

ISSUE

Were petitioners, Garson Kanin and Ruth Gordon Kanin, resident individuals of New York State for the entire year of 1968?

FINDINGS OF FACT

1. Petitioners, Garson Kanin and Ruth Gordon Kanin, filed a New York State income tax nonresident return for the year 1968. They reported on said return Federal income in the sum of \$126,205.00 and New York income in the sum of \$8,859.00. They reported and paid New York State income tax for said year in the sum of \$246.00.

2. On September 28, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Garson Kanin and Ruth Gordon Kanin, imposing New York State personal income tax

upon all of their income for the year 1968 upon the grounds that they were New York State residents during the entire year and accordingly issued a Notice of Deficiency in the sum of \$16,921.94.

3. Petitioner, Garson Kanin, is a well-known author, playwright and director. Petitioner, Ruth Gordon Kanin, is a well-known stage and screen actress and writer. Prior to December 1967, they were primarily engaged in legitimate theatrical activities in New York City. However, the legitimate theatre business became depressed and they had several unprofitable ventures. In 1967, petitioner, Garson Kanin, was offered an opportunity to write and direct a number of films in California. Petitioner, Ruth Gordon Kanin, was offered opportunities for acting in several films in California.

4. In December 1967, petitioners, Garson Kanin and Ruth Gordon Kanin, moved to California. Their housekeeper and cook went with them. They took most of their personal belongings with them. They rented a series of furnished homes while in California. They actively attempted to purchase a home in California, but were unable to find one that met their specifications. They became active in various California civic and cultural organizations. They joined various California social clubs. They opened charge accounts in numerous California department stores. Petitioner, Garson Kanin, had numerous relatives in California.

5. Petitioners, Garson Kanin and Ruth Gordon Kanin, owned a home at 242 East 49th Street in New York City. At the time they left for California, they were advised by their business advisor that it was financially advantageous for them to rent the house instead of selling it. On November 10, 1967, they leased the

home and its furnishings to the Walter Reade Organization, Inc. for a term of three years commencing December 1, 1967. They have consistently rented or attempted to rent said premises since that time.

6. Petitioners, Garson Kanin and Ruth Gordon Kanin, were the sole stockholders of T.F.T. Corporation, through which they conducted a substantial portion of their business affairs. Upon moving to California they closed the New York office of the corporation at the termination of its lease and opened an office in California.

7. Petitioner, Ruth Gordon Kanin, maintained a bank account in New York State during the year 1968.

8. Petitioners, Garson Kanin and Ruth Gordon Kanin, filed a resident California income tax return for the year 1968.

9. Petitioners, Garson Kanin and Ruth Gordon Kanin, spent 34 days in New York State during the year 1968 in connection with the production of a motion picture which petitioner, Garson Kanin, was directing. They stayed at the Hotel Algonquin in New York City during this period.

10. In 1971, petitioners, Garson Kanin and Ruth Gordon Kanin, moved from California to Edgartown, Massachusetts, where they are presently living. They purchased a home in Edgartown, Massachusetts, in 1972.

CONCLUSIONS OF LAW

A. That petitioners, Garson Kanin and Ruth Gordon Kanin, did not change their domicile from New York State to California in December 1967. They were domiciliaries of New York State during the entire year of 1968.

B. That since petitioners, Garson Kanin and Ruth Gordon Kanin, were domiciliaries of New York State during the year 1968 and since they spent more than 30 days in New York State during said year, therefore they were resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

C. That the petition of Garson Kanin and Ruth Gordon Kanin is denied and the Notice of Deficiency issued September 28, 1970, is sustained.

DATED: Albany, New York
March 8, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER