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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM E. KEYSER and  
HELEN C. KEYSER

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) 1967, 1968 &  
1969.

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

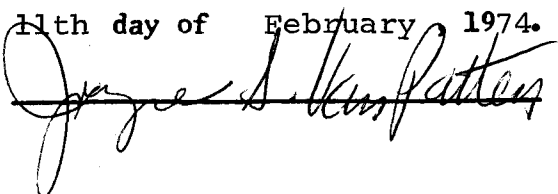
State of New York  
County of Albany


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 11th day of February, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon WILLIAM E. KEYSER and  
HELEN C. KEYSER (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. and Mrs. William E. Keyser  
8575 Main Avenue  
Riviera Beach, Maryland  
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

11th day of February 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

Mario A. Procaccino

~~KOFXXXXXX~~ 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 11, 1974

Mr. and Mrs. William E. Keyser  
8575 Main Avenue  
Riviera Beach, Maryland

Dear Mr. and Mrs. Keyser:

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

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In the Matter of the Petition	:	
of	:	
WILLIAM E. KEYSER and HELEN C. KEYSER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1967, 1968 and 1969.	:	

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Petitioners, William E. Keyser and Helen C. Keyser, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1967, 1968 and 1969. (File No. 33139514). 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 13, 1972, at 1:15 P.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were petitioners, William E. Keyser and Helen C. Keyser, resident individuals of New York State during the years 1967, 1968 and 1969?

FINDINGS OF FACT

1. Petitioners, William E. Keyser and Helen C. Keyser, filed New York State income tax nonresident returns for the years 1967, 1968 and 1969. They reported as total New York income on said returns the salary income earned by petitioner, William E. Keyser,

in New York State during said years. They omitted from total New York income all of their additional income reported for Federal income tax purposes. This additional income consisted of salary income earned by him outside of New York State and dividends.

2. On March 15, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, William E. Keyser and Helen C. Keyser, imposing New York State personal income tax upon all of their income for the years 1967, 1968 and 1969 upon the grounds that they were New York State residents during said years and accordingly issued a Notice of Deficiency in the sum of \$7,228.91.

3. Petitioner, William E. Keyser, was born in Baltimore, Maryland. He has lived in Riviera Beach, Maryland for the past forty years.

4. During the years 1967, 1968 and 1969 petitioners, William E. Keyser and Helen C. Keyser, owned and lived in a home located at 8575 Main Avenue, Riviera Beach, Maryland. They filed Maryland resident personal income tax returns. They listed their Maryland address as their home address on their Maryland and New York State income tax returns. Petitioner, William E. Keyser's automobile was registered in Maryland and he held a Maryland driver's license during said years.

5. Petitioners, William E. Keyser and Helen C. Keyser, made and executed wills in Maryland in 1965. The wills stated that they were of "Anne Arundel County in the State of Maryland" and that they were to be interred in burial lots in the Society of Friends Burial Grounds in West River, Maryland.

6. Petitioner, William E. Keyser, was employed by Yonkers Raceway, Inc. as a mutual manager during the years 1967, 1968 and 1969. He had been employed by the corporation since 1950. Prior to that time he had been employed by various racetracks throughout the United States.

7. Yonkers Raceway, Inc. was engaged in the business of operating a racetrack for trotters and pacers in Yonkers, New York, during the years 1967, 1968 and 1969. It operated the racetrack on approximately 154 nights during each of said years. Petitioner, William E. Keyser, worked at the track from Monday night to Saturday night during the racing meets. He left for his home in Maryland each Saturday night after the races. He returned to the racetrack from his home in Maryland each Monday night during the racing meets. These were the only days that he was in New York State during each of said years.

8. In the year 1967, petitioner, William E. Keyser, slept at his daughter's home in Bridgeport, Connecticut, during the racing meets. In the years 1968 and 1969 he rented a furnished room or a motel room in Westchester County, New York, for the duration of the racing meets.

#### CONCLUSIONS OF LAW

A. That petitioners, William E. Keyser and Helen C. Keyser, during the years 1967, 1968 and 1969 were not domiciled in New York State, did not maintain a permanent place of abode in New York State and spent less than 183 days in each of said years in New York State and therefore they were nonresidents of New York State during

said years in accordance with the meaning and intent of sections 605(a) and 605(b) of the Tax Law.


B. That the petition of William E. Keyser and Helen C. Keyser is granted and the Notice of Deficiency issued March 15, 1971, is cancelled.

DATED: Albany, New York  
February 11, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER