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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

R. McNICOL ROBBINS and
PATRICIA M. ROBBINS

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.

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 Mr. & Mrs. R.
McNicol Robbins (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

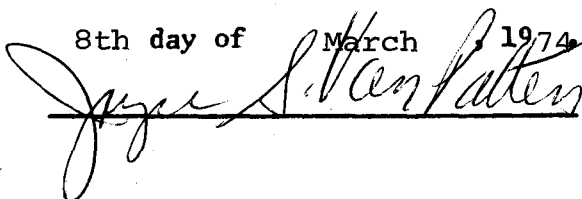
Mr. & Mrs. R. McNicol Robbins
131 Riverside Drive
New York, New York 10024

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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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 Irving Zand

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

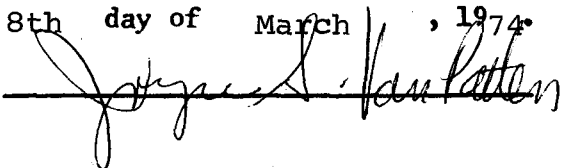
wrapper addressed as follows: Mr. Irving Zand
141 East 44th Street
New York, New York 10017

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

~~XXXXXXXXXXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 8, 1974

Mr. & Mrs. R. McNicol Robbins
131 Riverside Drive
New York, New York 10024

Dear Mr. & Mrs. Robbins:

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	:	
R. McNICOL ROBBINS and	:	
PATRICIA M. ROBBINS	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1966.	:	

Petitioners, R. McNicol Robbins and Patricia M. Robbins, 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 1966. (File No. 69177421). 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 September 17, 1973, at 1:30 P.M. Petitioners appeared by Irving Zand. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of Counsel).

ISSUE

I. Were petitioners, R. McNicol Robbins and Patricia M. Robbins, resident individuals of New York State during the year 1966?

FINDINGS OF FACT

1. Petitioners, R. McNicol Robbins and Patricia M. Robbins, filed a New York State nonresident combined income tax return for the year 1966. They listed their home address on said return as "200 N. Washington Ave., Pierre, South Dakota". The return indicated that \$725.24 in New York State income tax was withheld from the husband's income and \$308.82 was withheld from the wife's

income. They alleged in said return that his total New York income for said year was \$1,460.37 and her total New York income for said year was \$6,079.75. His alleged New York income for said year was derived by allocating \$9,390.25 received from his employers, other than Dolly Company, in accordance with the number of days he alleged to have worked within and without New York State during said year. They claimed a refund of \$969.95.

2. On October 16, 1967, the Income Tax Bureau issued a Statement of Refund Adjustment to petitioners, R. McNicol Robbins and Patricia M. Robbins, for the year 1966 in which it stated that they were domiciliary residents of New York State during said year and that therefore, their income from all sources was subject to New York State personal income tax. It further stated that they were entitled to a refund of \$144.19.

3. On February 19, 1968, in accordance with the aforesaid Statement of Refund Adjustment, the Income Tax Bureau issued for the year 1966, a Notice of Disallowance of Claim for Refund against petitioners, R. McNicol Robbins and Patricia M. Robbins, disallowing \$825.76 of the amount of \$969.95 claimed as a refund and allowing a refund of \$144.19.

4. Petitioner, R. McNicol Robbins, was born in Pierre, South Dakota, on March 30, 1935. He was brought up in South Dakota. His mother still resides in the family home in Pierre, South Dakota, where she maintains a room for him. He has other relatives there. He registered to vote in Huenes County, South Dakota in 1956. He has voted by absentee ballot in South Dakota in the general elections of 1962, 1964 and 1966. He paid a \$2.00 South Dakota school poll tax in 1966. He has always maintained a

South Dakota drivers license. He listed the South Dakota home address on his 1964, 1965 and 1966 New York State income tax returns and his 1966 Federal income tax return. He did not own any real property in South Dakota.

5. Petitioner, R. McNicol Robbins, came to live in New York City in 1957 in order to study acting. He has been in the entertainment business from that time to the present. He married his wife, petitioner, Patricia M. Robbins, in 1961. They have three children. They have always maintained an apartment in New York City. They frequently returned to South Dakota to visit his mother.

6. Petitioners, R. McNicol Robbins and Patricia M. Robbins, spent more than 30 days, but less than 183 days in New York State during the year 1966. In said year, he was member of the road company of Hello Dolly and spent approximately 325 days on the tour outside of New York State. They leased an apartment in Chicago from May 1, 1966 to November 1, 1966, where they lived while he was performing on the stage with the road company. He maintained bank accounts in New York and Chicago during said year.

7. Petitioner, Patricia M. Robbins, received income from salaries and wages in the sum of \$6,079.75 in the year 1966. A portion of this income constituted residual payments for commercials made in prior years. She failed to submit any documentary or other substantial evidence to show that this income was earned outside of New York State. The withholding tax statements attached to the 1966 New York State income tax return indicate that said income was paid by New York employers.

8. Petitioner, R. McNicol Robbins, received income from salary and wages in the sum of \$28,170.25 in the year 1966. He earned \$18,780.00 of said income for services rendered for the road company of Hello Dolly known as the Dolly Company,

outside of New York State. He failed to submit any documentary or other substantial evidence to show that the balance of \$9,390.25 was earned outside of New York State. The withholding tax statements attached to the 1966 New York State income tax return indicate that said income was paid by New York employers. A portion of this income constituted residual payments for commercials made in prior years.

CONCLUSIONS OF LAW

A. That petitioners, R. McNicol Robbins and Patricia M. Robbins, were domiciled in New York State during the year 1966.

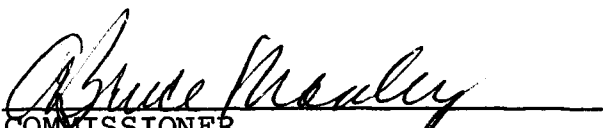
B. That since petitioners, R. McNicol Robbins and Patricia M. Robbins, during the year 1966 were domiciled in New York State and spent more than 30 days in New York State, therefore, they were resident individuals during said year in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.


C. That the petition of R. McNicol Robbins and Patricia M. Robbins is denied.

DATED: Albany, New York
March 8, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER