

POOR  
QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

MEMORANDUM

TO : State Tax Commission  
FROM : Mr. Rook  
SUBJECT: Cancellation of Penalty  
Norman Szeremy

I have received a request from the above taxpayer that we cancel the penalty imposed for his failure to file a personal income tax return.


This is a case of residency and domicile which was one of the 40 cases resolved at the last Tax Commission meeting. Originally, the hearing officer had recommended cancellation of the tax.

When the hearing officer rewrote the case, he neglected the penalty question which was academic under the decision as proposed.

Had this penalty question come to my attention, I certainly would have recommended cancellation of the penalty because the failure to file was due to reasonable cause.

Although the Income Tax Bureau has authority to cancel the penalty, this matter was before the Tax Commission and is appropriately referred to it.

I recommend cancellation. If you agree, kindly endorse this memorandum.

  
EDWARD ROOK  
SECRETARY TO THE  
STATE TAX COMMISSION

April 8, 1974  
cc: Mr. Scott  
Attachment - File

*Cancel Penalty  
Cylindred  
Morton Krum 4/19/74  
Approved  
4/29/74  
Approved  
4/30/74  
Approved  
Albani*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NORMAN SZEREMY

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 & 1967.:

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 6th day of March, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Norman Szeremy,

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Mr. Norman Szeremy  
R.D #1 - Box 10113  
Portsmouth, Virginia 23703

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

6th day of March, 1974

Nigel J. Wright

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NORMAN SZEREMY

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 & 1967. :

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 6th day of March, 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon George C.  
Shattuck, Esq. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: George C. Shattuck, Esq.  
Bond, Schoeneck & King, Esqs.  
1000 State Tower Building  
Syracuse, New York 13202  
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

6th day of March, 1974

Myrl W. Wright

Martha Funaro



**457-2655, 6, 7**

STATE TAX COMMISSION

HEARING UNIT

**EDWARD ROOK**

**SECRETARY TO  
COMMISSION**

STATE TAX COMMISSION

Mario A. Procaccino

**XXXXXXXXXXXXXX XXXX XXXX XXXX PRESIDENT**

A. BRUCE MANLEY

MILTON KOERNER

**ADDRESS YOUR REPLY TO**

**DATED:** Albany, New York  
**March 6, 1974**

Mr. Norman Saeremy  
R.D. #1 - Box 10013  
Portsmouth, Virginia 23703

**Dear Mr. Sweeney:**

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 decision 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,

Edward Rock  
Edward Rock  
XXXXXXXXXXXX

**Edward Book** *Ch. J. U.S.*  
~~XXXXXXXXXXXX~~  
 Thinking of you  
**Secretary, State Tax Commission**

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
	:	
of	:	
	:	
NORMAN SZEREMY	:	DECISION
	:	
for Redetermination of a Deficiency	:	
or for Refund of Personal Income	:	
Tax under Article 22 of the Tax Law	:	
for the Years 1966 and 1967.	:	
	:	

---

Petitioner, Norman Szeremy, petitioned for a redetermination of a deficiency in personal income taxes under Article 22 of the Tax Law for the years 1966 and 1967.

A formal hearing was held at the offices of the State Tax Commission, State Office Building, Syracuse, New York, on June 29, 1972, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by George C. Shattuck, Esq., and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUES

I. Did petitioner change his domicile to Virginia in October, 1966?

II. Is petitioner liable for resident New York State taxes for both the entire years of 1966 and 1967?

FINDINGS OF FACT

1. Petitioner, Norman Szeremy, timely filed New York State resident income tax returns for the year 1966. Petitioner filed no New York return for 1967.

2. A Notice of Determination of deficiencies in personal income taxes for the years 1966 and 1967 was issued on February 24, 1970, against the taxpayer under File No. 8-29866011. The deficiency includes a penalty for failure to file a 1967 return.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. Petitioner is a management level engineer with General Electric. General Electric permanently moved petitioner's department to Virginia in October, 1966 and assigned petitioner to the Virginia location.

5. Petitioner attempted to sell or rent his New York home during 1966 and 1967, but was unable to do so. His wife and children (at various times) occupied the house for both 1966 and 1967 to prevent the fire insurance from lapsing.

6. Several of petitioners' children attended New York schools and colleges while living in the New York home in 1966 and 1967.

7. Petitioner never visited his Syracuse address of his own volition after October, 1966. He stayed there on several short business trips to Syracuse (ordered by General Electric) and once on his doctor's orders.

8. Within one month of arriving in Virginia, petitioner rented and maintained an apartment. Petitioner looked for and purchased a home in Virginia.

9. On vacations and holidays petitioner's family visited him in Virginia. Petitioner did not visit them in New York.

10. Petitioner let his New York car registration and drivers license expire and registered his car in Virginia and obtained a Virginia drivers license. Petitioner did not vote in New York in 1966 or 1967. Petitioner registered to vote in Virginia in 1968.

11. Petitioner's wife joined him in Virginia in 1969, when the New York home was rented.

12. Petitioner has maintained and occupied a Virginia address up to the time of this hearing on June 29, 1972.

13. Petitioner filed a resident Virginia income tax return for 1967.

CONCLUSIONS OF LAW

A. Petitioner's domicile continued in New York until 1969 when his family moved to Virginia.

B. In 1966, petitioner maintained a permanent place of abode in New York State for the full year and spent in the aggregate more than 183 days in this state. Under such circumstances, petitioner was a resident pursuant to Tax Law section 605(a)(2).


C. In 1967, petitioner, a New York domiciliary, spent in the aggregate more than 30 days in New York State. Petitioner was a resident for 1967 pursuant to Tax Law section 605(a)(1).

D. The petition is denied with respect to 1966 and 1967 and the determination of the deficiencies in income tax are sustained.


E. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York  
March 6, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER