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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GENE R. TUCKER & GLENDA F. TUCKER :

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 25th day of October , 19 74, she served the within Notice of Decision (or Determination) by (certified) mail upon Gene R. & Glenda F. Tucker (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. Gene R. Tucker
11041 Saffold Way
Reston, Virginia 22070

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

25th day of October , 1974

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT
EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

Dated: Albany, New York

October 25, 1974

Mr. & Mrs. Gene R. Tucker
11041 Saffold Way
Reston, Virginia 22070

Dear Mr. & Mrs. Tucker:

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,

L. Robert Leisner

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
GENE R. TUCKER and GLENDA F. TUCKER : DECISION
for Redetermination of a Deficiency :
or for Refund of Personal Income :
Taxes under Article 22 of the Tax Law :
for the Year 1969. :

Petitioners, Gene R. Tucker and Glenda F. Tucker, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the year 1969.

(The case was submitted for decision on information contained in the file).

ISSUE

The sole question is whether the taxpayers changed their domicile and residence on July 1, 1969, on the husband's enlistment in the army and their moving to Virginia with off-base quarters in Virginia.

FINDINGS OF FACT

1. Petitioners, Gene R. Tucker and Glenda F. Tucker, timely filed a New York State income tax return for the year 1969.
2. A Notice of Determination of deficiency in personal income tax for the year 1969 was issued on January 29, 1973 against the taxpayers under File No. 9-49202525.
3. The taxpayers petitioned for a redetermination of the deficiency.

4. Gene R. Tucker enlisted voluntarily in the service and had in his possession a letter which guaranteed that he would be permanently stationed at Fort Meyer, in Arlington, Virginia with the United States Army Band.

5. The taxpayer and his wife obtained off-post housing, renting an apartment in Arlington, Virginia, and he and his wife moved all of their belongings into the apartment on July 1, 1969.

6. The taxpayers registered to vote in Virginia.

7. The taxpayers changed their auto registration to Virginia, and had to obtain Virginia title registration for their automobile.

8. The taxpayers were liable for personal property taxes on their automobile and paid such taxes as Virginia residents.

9. The taxpayers filed tax returns with the State of Virginia including all of the husband's army income and also including all of the wife's income earned in Virginia upon their moving to Virginia.

10. The taxpayers continued to live in Virginia to the present and now maintain their home in Reston, Virginia.

11. The taxpayers intended to change their permanent legal residence to Virginia as of July 1, 1969.

CONCLUSIONS OF LAW

A. The taxpayers changed their domicile and residence to Virginia on July 1, 1969.

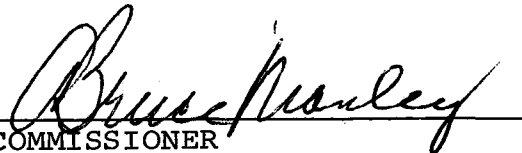
B. The income which the taxpayers earned in Virginia after permanently changing their residence to Virginia is not subject to New York State income tax.


C. The taxpayers' petition is sustained and the deficiency is cancelled.

DATED: Albany, New York
October 25, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER