

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

**MICHAEL P. LAPOLLA and
CAROL A. LAPOLLA**

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 **(X)** 22 of the
Tax Law for the Year **(X)** 1971.

State of New York
County of Albany

JANET MACK, 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 **2nd** day of **December**, 1975, she served the within
Notice of Decision ~~XXXXXXXXXXXX~~ by (certified) mail upon **MICHAEL P. LAPOLLA**
and **CAROL A. LAPOLLA** ~~XXXXXXXXXXXX~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: **Mr. and Mrs. Michael P. Lapolla**
7001 Glen Pass
San Antonio, Texas 78239
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 ~~XXXXXXXXXX~~
~~XX~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~XXXXXXXXXXXX~~ petitioner.

Sworn to before me this

2nd day of **December**, 19 **75**

Mary Hoff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER
(518) 457-3336

DATED: Albany, New York
December 2, 1975

Mr. and Mrs. Michael P. Lapolla
7001 Glen Pass
San Antonio, Texas 78239

Dear Mr. and Mrs. Lapolla:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section (X) **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: ~~XXXXXXXXXXXXXXXXXXXX~~
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
MICHAEL P. LAPOLLA and	:	
CAROL A. LAPOLLA	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income	:	
Taxes under Article 22 of the Tax	:	
Law for the Year 1971.	:	

Petitioners, Michael P. Lapolla and Carol A. Lapolla, petitioned for a redetermination of a deficiency in personal income taxes under Article 22 of the Tax Law for the year 1971.

The case was submitted for decision on information contained in the file and the case referred to L. Robert Leisner, Hearing Officer, for review. The taxpayer acted on their own behalf and the Income Tax Bureau was represented by Saul Heckelman, Esq.

ISSUE

Where the taxpayer, a serviceman, and his wife lived in a rented off-post home in Columbus, Georgia, throughout 1971, were they subject to New York income tax?

FINDINGS OF FACT

1. Petitioners, Michael P. Lapolla and Carol A. Lapolla, timely filed New York State income tax return for the year and

requested a refund of \$13.50.

2. A Notice of Determination of a deficiency in personal income taxes for the year was issued on March 26, 1973, against the taxpayers under File No. 1-89114149.

3. The taxpayers petitioned for redetermination of a deficiency and for their claimed refund.

4. The petitioner entered active duty in the United States Army on January 16, 1971, at Fort Benning, Georgia.

At that same time, the petitioner leased an off-post home at 2521 Sharpe Avenue in Columbus, Georgia, and lived there with his wife throughout 1971.

In 1971, the petitioner spent less than 30 days in New York State. He resided in New York State from January 1 through January 15, 1971.

CONCLUSIONS OF LAW

A. The taxpayer lived in Columbus, Georgia, where he maintained his only permanent place of abode during the year in issue, from January 16, 1971, throughout the balance of the year. The taxpayer spent less than 16 days in New York.

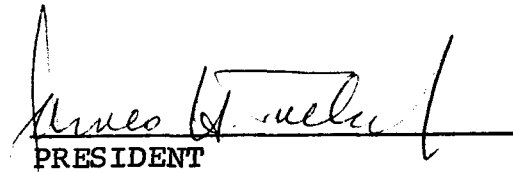
B. The taxpayer did not maintain a permanent place of abode outside of New York for the entire year of 1971. Under section 605(a)(1) of the Tax Law, the taxpayer is a resident individual of New York State and his 1971 income is subject to tax.

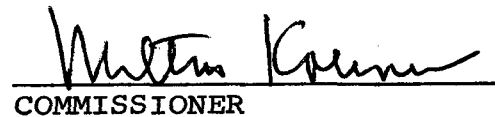
C. The determination of the deficiency is sustained and the taxpayers' petition and refund claim are denied.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York
December 2, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER