

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ERNEST LOEWY & SHIRLEY LOEWY

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

Margaret A. Groelz, 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 29th day of April, 1976, she served the within Notice of Decision (~~or Determination~~) by (certified) mail upon Ernest Loewy & Shirley Loewy (~~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. Ernest Loewy
8945 River Landing Way
Atlanta, Georgia
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

29th day of April, 1976

Margaret A. Groelz

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) 457-3850

DATED: Albany, New York
April 29, 1976

Mr. and Mrs. Ernest Loewy
8945 River Landing Way
Atlanta, Georgia

Dear Mr. and Mrs. Loewy:

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

Please take further notice that pursuant to
Section ~~(a)~~ 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
Supervising Tax
HEARING OFFICER

Enc.

cc: ~~Repetition's Representative~~
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ERNEST LOEWY and SHIRLEY LOEWY	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1966.	:	
	:	

Petitioners, Ernest Loewy and Shirley Loewy, 8945 River Landing Way, Atlanta, Georgia, 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. 69112586.) A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 24, 1975, at 10:45 A.M. On March 16, 1972, petitioner waived a formal hearing and requested that the State Tax Commission decide the case upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Were petitioners, Ernest Loewy and Shirley Loewy, resident individuals of New York State during the year of 1966.

FINDINGS OF FACT

1. Petitioners, Ernest Loewy and Shirley Loewy, his wife, filed a New York State combined income tax nonresident return for the year 1966. Petitioners reported a total income, on said return, received by them from the Army and Air Force Exchange Service in the amount of \$27,969.18. Petitioners allocated \$11,593.14 of that amount as earned while a nonresident, of the State of New York. He claimed a refund of \$45.05 and she claimed a refund of \$69.47.

2. On April 29, 1968, the Income Tax Bureau issued Statements of Audit Changes against petitioners, Ernest Loewy and Shirley Loewy, imposing additional personal income tax for the year 1966, in the amounts of \$391.85 and \$341.10 respectively, upon the ground that they were residents of the State of New York for the entire year of 1966. In accordance with the aforesaid Statements of Audit Changes it issued notices of deficiencies in the sums of \$416.26 and \$362.35 respectively.

3. Petitioners, Ernest Loewy and Shirley Loewy, lived in New York State from August 1, 1966 through December, 1966.

4. Petitioner, Ernest Loewy, had been an employee of the Department of the Army and the Air Force who worked and resided in Germany from May 15, 1947 until August 15, 1966. He married petitioner, Shirley Loewy, August 10, 1955, who was employed by

the Department of the Army and Air Force and who worked and resided in Germany from February 2, 1954 until August 15, 1966.

5. Petitioners, Ernest Loewy and Shirley Loewy, in the performance of their duties worked in New York State from August 15, 1966 until January 13, 1967, when they were assigned to Army headquarters in Dallas, Texas.

6. Petitioner's, Ernest Loewy, social security card was issued to him from New York City during the 1930's and he maintained a bank account for an indeterminate time in New York City. He voted from the State of Maine and his Armed Forces record indicates that his 'home of record' has been Rumford, Maine, since 1956.

7. Petitioners, Ernest Loewy and Shirley Loewy, spent less than 183 days in New York State in 1966.

CONCLUSIONS OF LAW

That during the year 1966, petitioner, Ernest Loewy, was a domiciliary of the State of Maine. He never acquired New York domicile.

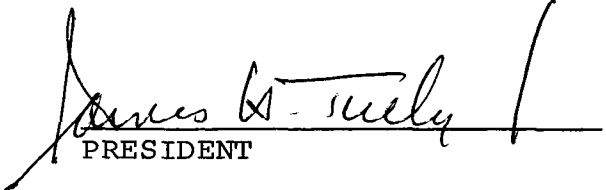
That since petitioner, Ernest Loewy, was a domiciliary of the State of Maine during the year 1966 and since he spent less than 183 days in the State of New York, he was therefore a nonresident in accordance with the meaning and intent of sections 605(a)(2) and 605(b) of the Tax Law. Petitioner, Shirley Loewy, is also

considered to be a domicile of the State of Maine since a wife's domicile follows that of her husband in accordance with the meaning and intent of 20 NYCRR 102.2(d)(5).

That the petition of Ernest Loewy and Shirley Loewy is granted; that the notices of deficiencies issued April 29, 1968, are cancelled and the Income Tax Bureau is hereby directed to refund to Ernest Loewy the sum of \$45.05 together with such interest as may be lawfully owing and to Shirley Loewy the sum \$69.47 together with such interest as may be lawfully owing.

DATED: Albany, New York
April 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER