

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

NORMAN R. LUCIA and JANE C. LUCIA

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year(s) 1966 and 1967

State of New York
County of Albany

MARYLOU SAMUELS

, 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 April, 1976, she served the within

Notice of Decision ~~(or Determination)~~ by (certified) mail upon Norman R. Lucia and

Jane C. Lucia

~~(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. Norman R. Lucia

8155 Lakeview Drive

Colorado Springs, Colorado 80908

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

2nd day of April, 1976.

Marylou Samuels

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

NORMAN R. LUCIA and JANE C. LUCIA

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article ~~(ss)~~ 22 of the
Tax Law for the Year(s) 1966 and 1967

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

MARYLOU SAMUELS, 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 April, 1976, she served the within Notice of Decision ~~(or Determination)~~ by (certified) mail upon Gerald I. Scher, Esq.

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

wrapper addressed as follows: Gerald I. Scher, Esq.
8505 20th Avenue
Brooklyn, New York 11214

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

2nd day of April, 1976.

Janet Mack

Marylou Samuels



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 2nd, 1976

Mr. and Mrs. Norman R. Lucia
8155 Lakeview Drive
Colorado Springs, Colorado 80908

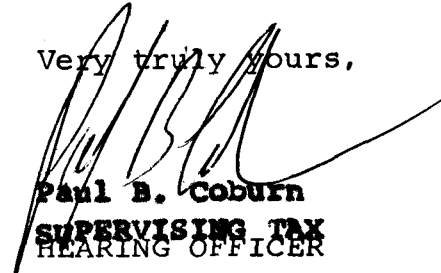
Dear Mr. and Mrs. Lucia:

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

Please take further notice that pursuant to
Section ~~(6)~~ **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: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
NORMAN R. LUCIA and JANE C. LUCIA : 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. :
:

Petitioners, Norman R. Lucia and Jane C. Lucia, residing at 8155 Lakeview Drive, Colorado Springs, Colorado 80908, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1966 and 1967. (File No. 8-29177139). A formal hearing was held before Paul B. Coburn, Hearing Officer, on September 25, 1975, at 4:00 P.M., at the offices of the State Tax Commission, Two World Trade Center, New York, New York. Petitioners appeared by Gerald I. Scher, Esq. The Income Tax Bureau appeared by Peter Crotty, Jr., Esq., (Alexander Weiss, Esq. of counsel). It was agreed at that time that the case would be submitted to the State Tax Commission on information contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Were petitioners, Norman R. Lucia and Jane C. Lucia, New York State residents for the years 1966 and 1967?

FINDINGS OF FACT

1. Petitioners, Norman R. Lucia and Jane C. Lucia, filed New York State income tax nonresident returns for the years 1966 and 1967.

2. On February 24, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Norman R. Lucia and Jane C. Lucia, imposing additional New York State personal income tax for the years 1966 and 1967 upon the grounds that they were resident individuals during said years and accordingly, issued a Notice of Deficiency in the sum of \$924.81.

3. Petitioner, Norman R. Lucia, is an officer in the United States Air Force. In 1955 petitioner was assigned to Mitchell Air Force Base, Long Island, New York. At that time, petitioners, Norman R. Lucia and Jane C. Lucia, purchased a home at 83 Florence Drive, Syosset, New York.

4. In April, 1958, petitioner, Norman R. Lucia, was transferred to the Air Force Academy in Colorado. At this time petitioners, Norman R. Lucia and Jane C. Lucia, moved their family to Colorado. Their Syosset, New York, home was not sold but was converted to

rental property. They purchased land in Colorado during the time that they resided there.

5. Petitioner, Norman R. Lucia, was subsequently transferred to Athens, Greece, in 1963 and then to Maxwell Air Force Base in Alabama. They resided with their family in private rental quarters during both of these tours of duty. Petitioner, Jane C. Lucia, was employed as a teacher while in Alabama and filed Alabama income tax returns.

6. Petitioners, Norman R. Lucia and Jane C. Lucia, sold their Syosset, New York, home in 1967.

7. Petitioner, Norman R. Lucia, was reassigned to the Air Force Academy in 1968 and presently resides in a home built on the land he purchased during his earlier sojourn in Colorado.

8. Petitioners, Norman R. Lucia and Jane C. Lucia, spent less than 30 days in New York State during each of the years 1966 and 1967.

CONCLUSIONS OF LAW

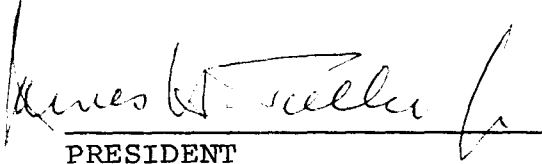
A. That although petitioners, Norman R. Lucia and Jane C. Lucia, were domiciled in New York State during the years 1966 and 1967, they were still nonresident individuals during said years in accordance with the meaning and intent of sections 605(a)(2) and

605(b) of the Tax Law, since during each of said years they did not maintain a permanent place of abode in New York State, maintained a permanent place of abode elsewhere and spent less than thirty days in New York State.

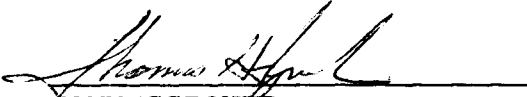
B. That the petition of Norman R. Lucia and Jane C. Lucia is granted and the Notice of Deficiency issued February 24, 1970, is cancelled.

DATED: Albany, New York
April 2, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER