

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT K. OWENS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(23)~~ 22 of the  
Tax Law for the Year ~~(s) or Period(s)~~ 1968:

State of New York  
County of Albany

Catherine Steele, 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 27th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Robert K. Owens

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. Robert K. Owens  
Garden State Motel  
Riverton, New Jersey 08077

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~ 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  
27th day of September, 1976.

Catherine Steele

Janet Buck



STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition :  
of :  
ROBERT K. OWENS : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for the :  
Year 1968. :

---

Petitioner, Robert K. Owens, Garden State Motel, Riverton, New Jersey 08077, filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 0-69865220 ). A small claims hearing was held June 9, 1976, at 10:45 A.M. before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter J. Crotty, Esq., (Louis Senft, Esq., of counsel).

ISSUE

Whether or not petitioner, Robert K. Owens, was a domiciliary of New York in 1968.

FINDINGS OF FACT

1. Petitioner, Robert K. Owens, considered himself a nonresident of New York for 1968 and filed no income tax return for the State of New York. A Notice of Deficiency was issued June 26, 1972 in the amount of \$1,013.71 tax due, \$253.43 penalty and \$194.43 interest for a total of \$1,461.57. The deficiency was computed from Federal information received.

2. Petitioner, Robert K. Owens, worked for the Hoeganeas Corporation of Riverton, New Jersey for about twenty years. He was a traveling salesman. In 1960, he bought a home in Elmira, New York which was centrally located for his traveling in the northeastern section of the United States. He lived in the house with his aged mother and used the home as a base to travel from. He maintained a small office in the home. In 1967, petitioner, Robert K. Owens, was promoted to sales manager and assigned to the home office where he would work with limited traveling. He moved to the Garden State Motel in Riverton, New Jersey, which was near his duty station.

3. Petitioner, Robert K. Owens, has lived in the Garden State Motel, in the same room, from October 1967 to this date. He has never married and all the personal effects he requires are kept at the motel. He gets his mail at the motel. His insurance and stock brokers and other personal business requirements are located in the Riverton area. His drivers license and car registration are from New Jersey.

4. Petitioner, Robert K. Owens, still owns the Elmira property. His mother is the only occupant. He visits her on weekends.

5. Petitioner, Robert K. Owens, makes business trips to the northeastern states from his duty station from time to time to oversee his sales staff. There is no sales staff in the Elmira area.

CONCLUSIONS OF LAW

A. That the New Jersey residence was not a motel room in the true sense of the word but rather a permanent place of abode within the intent and meaning of 20 NYCRR 102.2(e).

B. That petitioner, Robert K. Owens' stated intention as to change of domicile were not contradicted by his conduct, 20 NYCRR 102.2(d)(2).

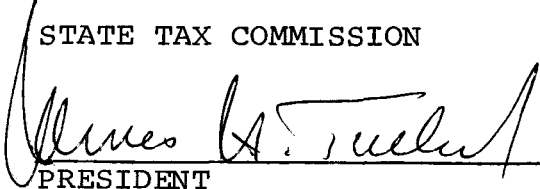
C. That the Elmira property was not petitioner's place of abode but rather a place to keep his aged mother.

D. That petitioner was not a resident or domiciliary of New York as defined by sections 605(1) and 605(2) of the Tax Law.

E. That the petition of Robert K. Owens is sustained and the Notice of Deficiency is cancelled.

DATED: Albany, New York  
September 27, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER