

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RONALD and VIVIAN LIDSKY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (8) 22 of the :
Tax Law for the Year ~~(1970)~~ 1970. :

State of New York
County of Albany

Marsina Donnini, 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 24th day of August, 1977, she served the within
Notice of Decision by ~~(certified)~~ mail upon Ronald & Vivian Lidsky

~~(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. Ronald Lidsky
Via Dei Rustici 6
Florence, Italy

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)~~
~~xxxxxx~~ 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

24th day of August, 1977.

Marsina Donnini

Joel Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RONALD and VIVIAN LIDSKY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~(six) or Period (x)~~ 1970:

State of New York
County of Albany

Marsina Donnini, 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 24th day of August, 1977, she served the within Notice of Decision by (certified) mail upon Irwin Lehrman (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Irwin Lehrman, CPA
400 Madison Avenue
New York, New York 10017

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

24th day of August, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

August 24, 1977

**Mr. & Mrs. Ronald Lidsky
Via Dei Rustici 6
Florence, Italy**

Dear Mr. & Mrs. Lidsky:

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

You have now exhausted your right of review at the administrative level. Pursuant to section **(2) 690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywaty
Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
RONALD and VIVIAN LIDSKY	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1970.	:	

Petitioners, Ronald and Vivian Lidsky, residing at Via Dei Rustici 6, Florence, Italy, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 13588).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on January 24, 1977 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Irwin Lehrman, CPA and for his wife, petitioner, Vivian Lidsky. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUE

Whether the petitioners, Ronald and Vivian Lidsky, changed their domicile from New York State to Florence, Italy during the year 1970.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On February 25, 1974, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Ronald and Vivian Lidsky, asserting that additional personal income tax was due for the year 1970 on the ground that they were residents of New York State for the entire year and thereby taxable on the income earned both within and without New York State during said year. The statement showed the allowance of three personal exemptions and a subtraction of \$1,875.00 was made with respect thereto. In accordance with the aforesaid statement, a Notice of Deficiency was issued on February 25, 1974 in the sum of \$1,923.84.

2. On or about September 30, 1970, the petitioner began working for Mid Atlantic Footwear Corporation and was assigned to Italy in charge of shoe factory production facilities.

3. During the entire year in question, the petitioner's wife and family continued to maintain and reside in their New York residence.

4. Petitioners submitted a copy of their 1970 Federal income tax return which showed that they claimed four personal exemptions for said year and deducted \$2,500.00 with respect thereto.

5. That the petitioners did not change their domicile from New York State to Italy for or during any part of the year 1970.

6. That the petitioners maintained a permanent place of abode in New York and spent more than thirty days in New York for the year 1970.


7. That the petitioners are held to be New York State residents for the year 1970, within the meaning and intent of section 605 of the Tax Law.

8. That the petition of Roland and Vivian Lidsky is granted to the extent of allowing a deduction for exemptions of \$2,500.00 rather than the amount previously allowed of \$1,875.00; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued February 25, 1974; and, that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
August 24, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER