

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

U. A. GARRED and RUTH J. SEXTON

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(*)~~ 22 of the
Tax Law for the Year ~~(*)~~ 1973. :

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 12th day of May, 1977, he served the within
Notice of Decision by (certified) mail upon U. A. Garred & Ruth J.
Sexton (~~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. U. A. Garred Sexton
15 Arbutus Avenue
Chelmsford, Massachusetts 01824

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

12th day of May, 1977.

Bruce Batchelor

ant Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

May 12, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. U. A. Garred Sexton
15 Arbutus Avenue
Chelmsford, Massachusetts 01824

Dear Mr. & Mrs. Sexton:

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

Please take further notice that pursuant to
Section(~~2~~) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
U.A. GARRED and RUTH J. SEXTON :
for Redetermination of Deficiency :
or for Refund of Personal Income :
Taxes under Article 22 of the Tax :
Law for the Year 1973. :

DECISION

Petitioners, U.A. Garred and Ruth Sexton, residing at 15 Arbutus Avenue, Chelmsford, Massachusetts 01824, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1973. (File No. 3-49181380). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, State Campus Building #9, Albany, New York, on January 24, 1977 at 2:00 p.m. Petitioner, U.A. Garred Sexton, appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq., (Andrew Haber, Esq. of counsel).

ISSUE

Were petitioners, U.A. Garred and Ruth Sexton, resident individuals of New York State during the period from January 1, 1973 to September 30, 1973?

FINDINGS OF FACT

1. Petitioners, U.A. Garred and Ruth Sexton, filed a timely New York State joint personal income tax nonresident return for the year 1973. They reported no New York State source income and requested that New York State tax withheld from petitioner, U.A. Garred Sexton's wages in the amount of \$1,671.22 be refunded to them.

2. The Income Tax Bureau contended that petitioners, U.A. Garred and Ruth Sexton, were residents of New York State from January 1, 1973 until September 30, 1973, and all income received during this period was taxable whether earned within or without the state of New York. A Statement of Refund Adjustment was issued June 17, 1974 reducing the refund shown on the income tax return from \$1,671.22 to \$555.57 and after protest, a Notice of Refund Disallowance in the amount of \$1,115.65 was issued April 11, 1975.

3. Petitioners were residents of Garden City, New York. On September 1, 1972, petitioner, U.A. Garred Sexton, was transferred to Columbus, Ohio, by his employer for purposes of training. Petitioners, U.A. Garred and Ruth Sexton, rented their Garden City home and moved into an apartment in Ohio. Petitioners remained in Ohio until October 1, 1973 when petitioner, U.A. Garred Sexton, was transferred to Massachusetts.

4. Petitioner, U.A. Garred Sexton, was transferred to Ohio for a temporary period of time. He had no knowledge of where he would be sent after training was completed.

CONCLUSIONS OF LAW

A. That petitioners, U.A. Garred and Ruth Sexton, were domiciliaries of New York State from January 1, 1973 until October 1, 1973 and did not maintain a permanent place of abode without New York State during said period of time and; therefore, during the period January 1, 1973 to October 1, 1973, their income was subject to New York State personal income tax as resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the petition of U.A. Garred and Ruth Sexton is denied and the Notice of Refund Disallowance issued April 11, 1975 is sustained.

DATED: Albany, New York
May 12, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER