

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD E. RAMEY

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(s) ~~or Period(s)~~ :  
1970, 1971 and 1972.

State of New York  
County of Albany

John Huhn, 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 17th day of April, 1978, he served the within  
Notice of Decision by (certified) mail upon Harold E. Ramey

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Harold E. Ramey  
98 Shelley Drive  
Bethpage, New York 11714

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

17th day of April, 1978.





STATE OF NEW YORK  
STATE TAX COMMISSION

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For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
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Tax Law for the Year(s) ~~or Period(s)~~ :  
1970, 1971 and 1972.

State of New York  
County of Albany

John Huhn , 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 17th day of April , 1978, she served the within  
Notice of Decision by (certified) mail upon William DeFrancis

(representative of) the petitioner in the within proceeding,

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

as follows: William DeFrancis, Esq.  
Brent, Phillips, Dranoff & Davis  
20 Old Turnpike Road  
Nanuet, New York 10954

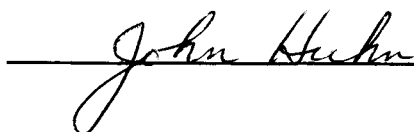
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

17th day of April , 1978.







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

April 17, 1978

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

Mr. Harold E. Ramey  
98 Shelley Drive  
Bethpage, New York 11714

Dear Mr. Ramey:

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(s) **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,

*Aloysius J. Nendza*  
**Aloysius J. Nendza**  
**Assistant Director**

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petitions	:	
of	:	
HAROLD E. RAMEY	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1970, 1971 and 1972.	:	

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Petitioner, Harold E. Ramey, 98 Shelley Drive, Bethpage, New York 11714, filed petitions for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1970, 1971 and 1972 (File Nos. 13362 and 13363).

A formal hearing was held before Edward Goodell, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 8, 1977 at 1:15 P.M. Petitioner appeared by Brent, Phillips, Dranoff & Davis, Esqs. (William DeFrancis, Esq., of counsel). The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUE

Whether petitioner was a resident of New York State for income tax purposes during the years 1970, 1971 and 1972.

FINDINGS OF FACT

1. On June 25, 1973, the Income Tax Bureau issued a Notice of Deficiency against petitioner, Harold E. Ramey, for the years 1970 and 1971. It subsequently issued him another Notice of Deficiency on December 23, 1974 for the year 1972. Both notices asserted personal income tax to be due on the grounds that petitioner failed to file New York State resident income tax returns for said years. Penalty was also asserted against him pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law.

2. Petitioner timely filed petitions for redetermination of a deficiency or for refund of personal income tax for the years 1970, 1971 and 1972.

3. Harold E. Ramey, a naturalized United States citizen who was born in Canada, moved to New York State in 1951. He purchased a house at 98 Shelley Drive, Bethpage, New York, in 1956. Petitioner and his wife and children resided in said house from 1956 until late in 1969, at which time he and his wife moved to Grand Bahama Island.

4. In November or December of 1969, when their children were no longer living with them, petitioner and his wife moved from their home in Bethpage to an apartment rented by his brother, Richard Ramey, at Jansel Court, Freeport, Grand Bahama Island.

They left most of their possessions at their former home and brought only clothing and minor items (such as clocks, radios, and a television) with them. The lease which Richard Ramey had was amended on December 12, 1969 to permit petitioner and his wife to reside at the Jansel Court apartment. Petitioner testified that he shared the premises and expenses of said apartment with his brother.

5. Petitioner decided to rent out his former home in Bethpage and did so in March of 1970. The tenants were permitted to use the furnishings which petitioner had left in the house.

6. In addition to the house in Bethpage, petitioner also owned a one-family residence located in Bay Shore, New York, which was leased to tenants during the years at issue.

7. Petitioner testified that he intended to reside permanently in Freeport, but then decided to return to New York at the end of 1972 in order to seek medical treatment for his wife who died on August 18, 1974. Petitioner has continued to reside in New York since he returned to the State at the end of 1972.

8. While residing in the Bahamas, petitioner worked as a Flight Engineer for Trans World Airlines, Inc. ("TWA") on its international division flights. In each of the years at issue, petitioner made 11 flights, all of which were around the world. All flights originated and terminated at Kennedy Airport in New York City.

9. Petitioner testified that during the years at issue, it was his practice to come to New York on either the day before or the day of the start of a flight, and return to the Bahamas from New York as soon after his flight's conclusion as he could arrange transportation.

10. Petitioner contended that he was in New York about two or three days a month during each of the years at issue; however, he failed to submit any documentary evidence to substantiate the number of days he spent within New York State during said years. Petitioner testified that when he was in New York State, he stayed near Kennedy Airport. He usually stayed at the Jade East or Howard Johnson's motel or at a friend's home.

11. Petitioner testified that at a Department of Taxation and Finance conference pertaining to the period at issue, he was accused of leasing an apartment in Islip Terrace. However, petitioner testified that this was not correct and that his brother leased said apartment.

12. While living in the Bahamas, petitioner continued an affiliation with a church in Bethpage, but established no such affiliation in the Bahamas. He owned and maintained a car in New York which he left at his employer's parking lot.

13. Petitioner filed Federal returns for each of the years at issue and claimed an exclusion of income pursuant to section 911(a)(1) of the Internal Revenue Code, as a bona fide resident of the Grand Bahamas.

CONCLUSIONS OF LAW

A. That petitioner, Harold E. Ramey, was domiciled in New York State prior to moving to Grand Bahama Island and has failed to clearly sustain the burden of proof required to show that he intended to remain there permanently. Therefore, he is considered to have been domiciled in New York State for the years 1970, 1971 and 1972 within the meaning and intent of 20 NYCRR 102.2(d)(3).

B. That petitioner was domiciled in New York State during the years at issue and has failed to sustain the burden of proof required to show that he did not spend more than 30 days in New York State in each of said years. Therefore, he is considered a resident for income tax purposes for each of said years within the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b). Accordingly, petitioner was required to file New York State income tax resident returns for the years 1970, 1971 and 1972, and to include thereon the amounts of income he reported for Federal income tax purposes for each of said years.




C. That petitioner's personal income tax liabilities are reduced to \$123.43 for 1970, \$161.96 for 1971, and \$152.25 for 1972; that said liabilities are due together with such penalties (pursuant to sections 685(a)(1) and 685(a)(2) of the Tax Law) and interest as may be lawfully owing; therefore, the Income Tax Bureau is hereby directed to accordingly modify the notices of deficiency issued June 25, 1973 and December 23, 1974.

D. That the petitions of Harold E. Ramey are otherwise denied and the notices of deficiency, except as modified by Conclusion of Law "C", are sustained.

DATED: Albany, New York  
April 17, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER