

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK D. RAY AND FLORA K. RAY

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(s) ~~XXXXXX~~
1969 and 1970

State of New York
County of Albany

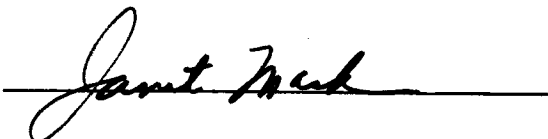
John Huhn, being duly sworn, deposes and says that
He is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 17th day of February, 1978, He served the within
Notice of Decision by (certified) mail upon Frank D. Ray &
Flora K. Ray
~~representative of~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Frank D. Ray & Flora K. Ray
25 Tudor City Place, Apt. 1705
New York, New York 10017

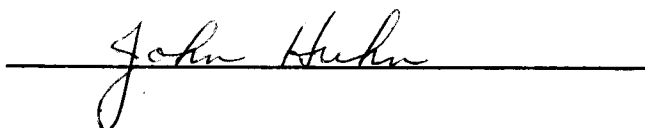
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

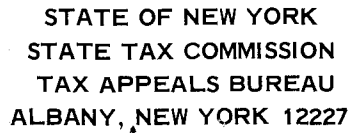
That deponent further says that the said addressee is the ~~representative~~
~~of the~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~representative of the~~ petitioner.

Sworn to before me this

17th day of February, 1978







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

TA-1.12 (6/77)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANK D. RAY AND FLORA K. RAY : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article :
22 of the Tax Law for the Years 1969 and :
1970 :

Petitioners, Frank D. Ray and Flora K. Ray, residing at 25 Tudor City Place, Apt. 1705, New York, New York 10017, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 13364).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 27, 1977 at 9:15 A.M. Petitioner Frank D. Ray appeared pro se and for his wife, petitioner Flora K. Ray. The Income Tax Bureau appeared by Peter Crotty, Esq. (James Morris, Esq., of counsel).

ISSUE

Whether petitioner Frank D. Ray was a resident of New York State for personal income tax purposes during the years 1969 and 1970.

FINDINGS OF FACT

1. In May of 1967, petitioner Frank D. Ray, a New York State domiciliary, was transferred by his employer from New York to Connecticut. He left his mother's New York City apartment where he had resided and moved into a furnished room at a YMCA in Connecticut, which was convenient to his duty station.

2. Petitioner Frank D. Ray married Flora K. Ray, a New York State resident, on August 16, 1969. She maintained an apartment in New York City while he continued to live alone at the Connecticut YMCA. During 1969 he spent more than 30 days in New York State, visiting his wife and attending to his mother's needs.

3. Petitioner Frank D. Ray's employer transferred him back to New York State on April 14, 1970, at which time he moved into his wife's apartment in New York City.

CONCLUSIONS OF LAW

A. That petitioner Frank D. Ray was domiciled in New York State at the time his employer transferred him to Connecticut and has failed to sustain the burden of proof necessary to show that he established a domicile outside New York State, within the meaning and intent of section 605(a) of the Tax Law and 20 NYCRR 102.2(d)(2). Therefore, he was domiciled in New York State for the tax years 1969 and 1970.

B. That Frank D. Ray was domiciled in New York State for the years 1969 and 1970 and spent more than 30 days in New York State in each of said years. Therefore, he is considered a resident of New York State for each year within the meaning and intent of section 605(a) of the Tax Law and 20 NYCRR 102.2(b).

C. That the petition of Frank D. Ray and Flora K. Ray is denied and the Notice of Deficiency issued March 26, 1973 in the amount of \$718.94 is sustained.

DATED: Albany, New York
February 17, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER