

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EDWARD L. and LENORE A. REISS

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 ~~(8)~~ ~~or Period~~ ~~(8)~~ 1973.:
~~(8)~~ ~~or Period~~ ~~(8)~~

State of New York
County of Albany

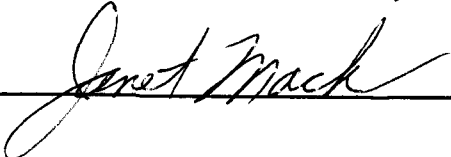
John Huhn , being duly sworn, deposes and says that
~~she~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of March , 1978, ~~she~~ served the within
Notice of Decision by (certified) mail upon Edward L. & Lenore A.
Reiss (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Edward L. Reiss
3 Washington Square Village
New York, New York 10012

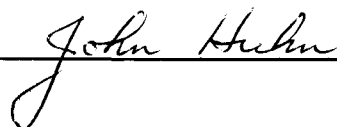
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~
~~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

16th day of March , 1978







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

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

March 16, 1978

**Mr. & Mrs. Edward L. Reiss
3 Washington Square Village
New York, New York 10012**

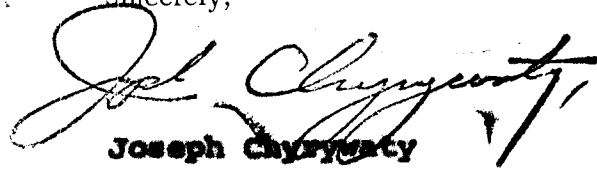
Dear Mr. & Mrs. Reiss:

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 ~~(x)~~ **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 Chynoweth
Hearing Examiner**

cc: ~~Taxing Bureau's Representative~~

Taxing Bureau's Representative

STATE TAX COMMISSION

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 June 29, 1977 at 10:45 A.M. Petitioner Edward L. Reiss appeared pro se and for his wife, petitioner Lenore A. Reiss. The Income Tax Bureau appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioners changed their New York domicile during 1973.

FINDINGS OF FACT

1. Petitioners, Edward L. and Lenore A. Reiss, timely filed a New York State personal income tax nonresident return for the year 1973. They reported that their period of New York State residence was from January 1, 1973 to June 25, 1973.

2. The Income Tax Bureau contended that petitioners did not effect a change of domicile and remained residents of New York State for income tax purposes for the entire year. A Notice of Deficiency was issued against petitioners on May 24, 1976 in the amount of \$1,105.41 in personal income tax, plus \$174.67 in interest, for a total due of \$1,280.08.

3. Petitioner Edward L. Reiss was a professor at New York University. He requested and was granted a sabbatical leave for the 1973-1974 school year. In the summer of 1973, petitioners sublet their New York apartment with some furniture. They put the rest of their furniture in a New York storage facility and went to California. They contended that it was their intention to make California their permanent place of abode if petitioner Edward L. Reiss could obtain suitable employment there.

4. While in California, petitioners enrolled their two children in California schools. They lived in furnished houses while petitioner Edward L. Reiss attempted to obtain employment in California or in the State of Arizona. Petitioner Edward L. Reiss failed to find suitable employment and in September of 1974, petitioners returned to New York State.

5. Petitioners maintained a New York bank account while in California. They filed a California nonresident part-year income tax return for the year 1973. Petitioner Edward L. Reiss never terminated his employment with New York University.

CONCLUSIONS OF LAW

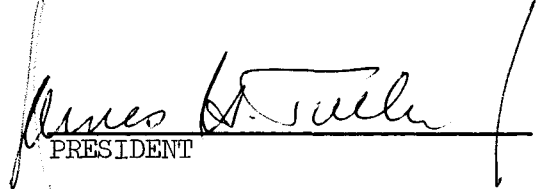
A. That petitioners, Edward L. and Lenore A. Reiss, did not effect a change of domicile to California during the year 1973.

B. That petitioners were domiciliaries of New York State during the year 1973, spent more than 30 days in New York State during 1973, had no permanent place of abode outside of New York State during the entire year of 1973, and did have a permanent place of abode in New York State during said year; therefore, they were resident individuals of New York State for all of 1973 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law.

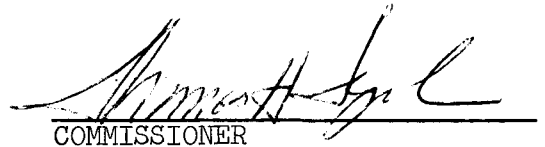
C. That the petition of Edward L. and Lenore A. Reiss is denied and the Notice of Deficiency issued May 24, 1976 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
March 16, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER