

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Robert Shorin :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Year 1971. :

State of New York

County of Albany

Jay Vredenburg, 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 19th day of October, 1979, he served the within notice of Decision by certified mail upon Robert Shorin, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert Shorin

1111 Crandon Blvd.

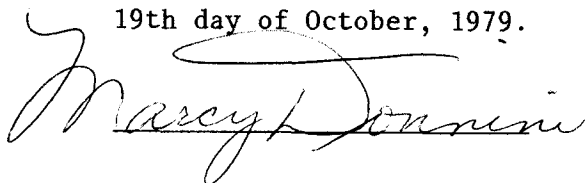
Miami Beach, FL 33149

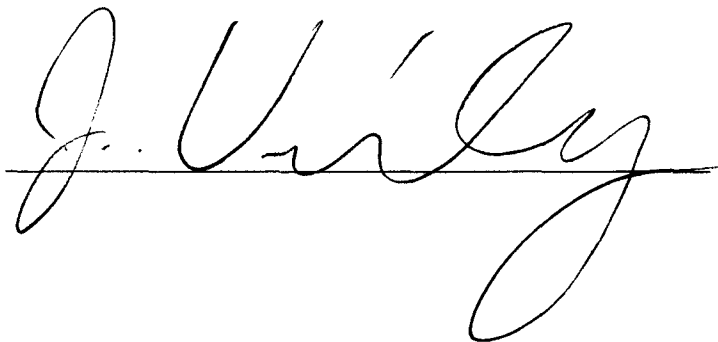
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

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

Sworn to before me this

19th day of October, 1979.


Nancy L. Donnen


J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Robert Shorin :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
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Personal Income Tax :
under Article 22 of the Tax Law
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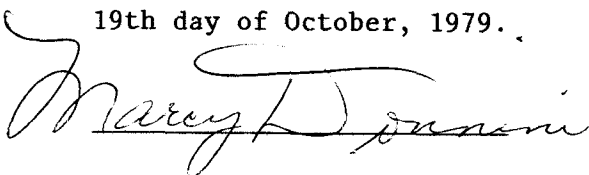
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 19th day of October, 1979, he served the within notice of Decision by certified mail upon Stephen J. Krass the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

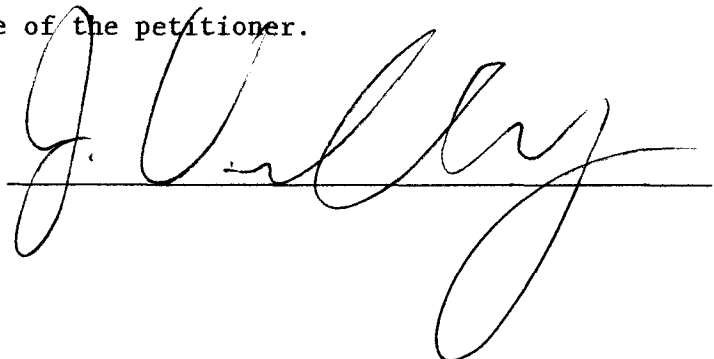
Mr. Stephen J. Krass
562 Fifth Ave.
New York, NY 10036

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
19th day of October, 1979.


Nancy L. Donnan


J. Vredenburg

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

October 19, 1979

Robert Shorin
1111 Crandon Blvd.
Miami Beach, FL 33149

Dear Mr. Shorin:

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) 722 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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Stephen J. Krass
562 Fifth Ave.
New York, NY 10036
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
ROBERT SHORIN : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article :
23 of the Tax Law for the Year 1971. :

Petitioner, Robert Shorin, 1111 Crandon Boulevard, Miami Beach, Florida 33149, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 23 of the Tax Law for the year 1971 (File No. 12389).

A formal hearing was held before George F. Murphy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 9, 1977 at 10:45 A.M. Petitioner appeared by Stephen J. Krass, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUE

Whether petitioner was a resident of New York State during all of 1971.

FINDINGS OF FACT

1. On September 20, 1972, petitioner, Robert Shorin, and his wife Arlene Shorin, filed a New York State Combined Income Tax

Return for 1971. On said return, petitioner indicated a period of New York residence from January 1, through July 31, 1971, and reported income taxable to New York State for said period only.

2. On September 5, 1975, the Income Tax Bureau issued a Statement of Audit Changes against petitioner and his wife, asserting additional personal income tax for 1971 of \$3,678.42, plus interest of \$748.37, for a total of \$4,426.79. This was done on the grounds that they were both "taxable as resident taxpayers of New York for the entire year." Since Arlene Shorin's recomputed income was too small to yield an additional tax due, her name was subsequently stricken from said Statement of Audit Changes. Accordingly, a Notice of Deficiency was issued against petitioner, Robert Shorin, on September 5, 1975.

3. On or about July 1, 1971, petitioner, (who was a long-time employee of Topps Chewing Gum, Incorporated ("Topps"), a New York based corporation) was assigned to Europe by his employer, for the purpose of investigating the potential market there. The record is void of any information concerning where he resided for the three-month period commencing with his arrival in Europe; however, from October 1, 1971 through September 30, 1972, petitioner leased a furnished apartment in Brussels, Belgium. While petitioner was in Europe, his wife and children remained in New York, residing in their house in Syosset, New York.

4. On December 1, 1971, petitioner's wife leased their Syosset house for a nineteen-month period ending June 30, 1973. At this time, she and her children joined petitioner in Brussels.

All of petitioner's furniture remained in the Syosset house. Subsequent to the expiration of said lease, petitioner leased the Syosset house again to different individuals, as a furnished dwelling for the period July 15, 1973 through July 31, 1975. Under the terms of this lease, the landlord (petitioner herein) was responsible for the maintenance of all equipment, including the central air conditioner, washer, drier, oil burner, etc.

5. Sometime in 1972, petitioner ended his employment with Topps and returned to the United States, whereupon he set up residence in a leased apartment in the State of Florida.

6. Petitioner, Robert Shorin, contends that his intention at the time of his removal from New York was to remain permanently in Brussels, Belgium. He purports that his wife's closing all charge accounts prior to joining him supports such a contention.

CONCLUSIONS OF LAW

A. That section 605(a) of the Tax Law provides, in part:

(a) Resident individual. A resident individual means an individual: (1) who is domiciled in this state, unless he maintains no permanent place of abode in this state, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this state...

The regulations contain similar provisions (20 NYCRR 102.2(b)).

B. That "a domicile once established continues until the person in question moves to a new location with the bona fide intention of making his fixed and permanent home there." (20 NYCRR 102.2(d) 2). Petitioner, Robert Shorin, has not sustained the burden of proof imposed by section 689(e) of the Tax Law, which requires him to show that he changed his domicile from New York to

Belgium during 1971; accordingly, he is deemed to have been domiciled in New York for all of 1971.

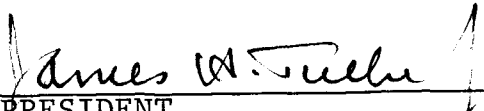
C. That since petitioner, Robert Shorin, was domiciled in New York and did not meet the criteria for exception set forth in section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b), he was a resident of New York for tax purposes for all of 1971.

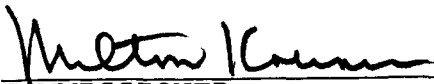
D. That the petition of Robert Shorin is hereby denied and the Notice of Deficiency issued September 5, 1975 is sustained.


DATED: Albany, New York

OCT 19 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

to Paul Coburn

Please file.

SHORIN, ROBERT

October 20, 1979

M-75 (5/76)

From Robert F. Mulligan

TA-26 (4-76) 25M

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

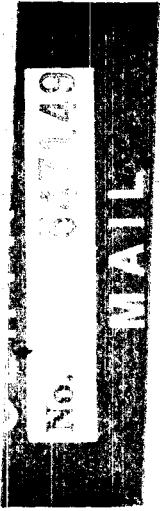
STATE CAMPUS
ALBANY, N. Y. 12227



Mr. Krass
4/22/99

Stephen J. Krass
562 Fifth Ave.
New York, NY 10036

Formal



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

October 19, 1979

Robert Shorin
1111 Crandon Blvd.
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Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Stephen J. Krass
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New York, NY 10036
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STATE TAX COMMISSION

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B. That "a domicile once established continues until the person in question moves to a new location with the bona fide intention of making his fixed and permanent home there." (20 NYCRR 102.2(d) 2). Petitioner, Robert Shorin, has not sustained the burden of proof imposed by section 689(e) of the Tax Law, which requires him to show that he changed his domicile from New York to

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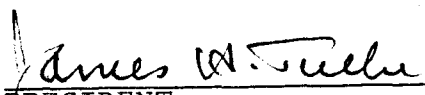
C. That since petitioner, Robert Shorin, was domiciled in New York and did not meet the criteria for exception set forth in section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b), he was a resident of New York for tax purposes for all of 1971.

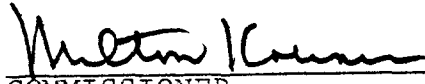
D. That the petition of Robert Shorin is hereby denied and the Notice of Deficiency issued September 5, 1975 is sustained.

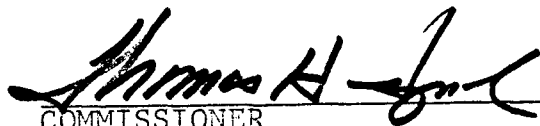
DATED: Albany, New York

OCT 19 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER