

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Robert A. Lasley :
and Roberta M. Lasley :
: 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 3rd day of April, 1981, he served the within notice of Decision by certified mail upon Robert Lasley, and Roberta M. Lasley, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert A. Lasley
and Roberta M. Lasley
11 Wardell Avenue
Rumson, NJ 07760

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
3rd day of April, 1981.

Conrad A. Haglund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Robert A. Lasley :
and Roberta M. Lasley :
: 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 3rd day of April, 1981, he served the within notice of Decision by certified mail upon Patrick J. Doherty 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. Patrick J. Doherty
19 Lancer Road
Riverside, CT 06878

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
3rd day of April, 1981.

Carrie A. Haglund

J. Vredenburg

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

April 3, 1981

Robert A. Lasley
and Roberta M. Lasley
11 Wardell Avenue
Rumson, NJ 07760

Dear Mr. & Mrs. Lasley:

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:

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
Patrick J. Doherty
19 Lancer Road
Riverside, CT 06878
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
ROBERT A. LASLEY and ROBERTA M. LASLEY	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1971.	:	

Petitioners, Robert A. Lasley and Roberta M. Lasley, 11 Wardell Avenue, Rumson, New Jersey 07760, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1971 (File No. 14299).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 8, 1979 at 10:45 A.M. Petitioners appeared by Patrick J. Doherty, Esq. The Audit Division appeared by Peter Crotty, Esq. (Samuel Freund, Esq., of counsel).

ISSUE

Whether petitioner Roberta M. Lasley was a resident of New York State during the period January 1, 1971 to May 28, 1971.

FINDINGS OF FACT

1. Petitioners, Robert A. Lasley and Roberta M. Lasley, filed a joint New York State Income Tax Nonresident Return for the year 1971 on June 18, 1973.

2. On November 24, 1975, the Income Tax Bureau issued a Notice of Deficiency, along with an explanatory Statement of Audit Changes, for 1970 and 1971. All adjustments, penalties, corrections and recomputations were conceded except for a recomputation for the year 1971 involving petitioner Roberta M. Lasley.

The Income Tax Bureau determined that petitioner Roberta M. Lasley was a resident of New York State during the period January 1, 1971 through May 28, 1971. Accordingly, since she and her husband did not have the same resident status for the entire year 1971, their respective tax liabilities were computed "as if each spouse had filed separate Federal returns."

3. Petitioner Roberta M. Lasley was a resident of and employed in New York State, when she accepted an assignment in Brussels, Belgium on May 1, 1970. Her New York employer, the General Foods Corporation, transferred its European operations to Belgium, along with Mrs. Lasley's position.

4. In late May of 1971, petitioner Roberta M. Lasley married petitioner Robert A. Lasley who was also employed in Belgium with the General Foods Corporation. On May 28, 1971, both petitioners returned to the United States and established a domicile in the State of Connecticut.

5. Petitioner Roberta M. Lasley resided in the State of Connecticut and worked approximately 90 days at the New York offices of the General Foods Corporation during the period May 29, 1971 to December 31, 1971.

6. Petitioner Robert A. Lasley did not spend any time in New York State from May 1, 1970 to May 28, 1971.

7. Petitioner Roberta M. Lasley maintained that she was domiciled in New York State until May 28, 1971. However, she argued that she was a nonresident from January 1, 1971 to May 28, 1971 because she came within the definition of a nonresident as defined in section 605 of the Tax Law. She reasoned that she was a nonresident because she did not maintain a permanent place of abode in New York, maintained a permanent place of abode elsewhere, and had not spent more than thirty days in New York while domiciled in New York during January 1, 1971 to May 28, 1971. She further reasoned that the three requirements of section 605 of the Tax Law are only applicable during the period she was

domiciled in New York.

CONCLUSIONS OF LAW

A. That petitioner Roberta M. Lasley was not a resident of New York State, as defined in section 605(a)(1) of the Tax Law during the period January 1, 1971 to May 28, 1971. During such period, petitioner was a New York domiciliary, maintained no permanent place of abode in New York State, maintained a permanent place of abode elsewhere, and spent less than 30 days in New York State.

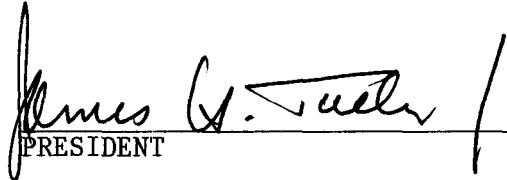
B. That the petition of Robert A. Lasley and Roberta M. Lasley is granted to the extent that the tax liability of petitioner Roberta M. Lasley shall be computed as a nonresident, for the entire year 1971.

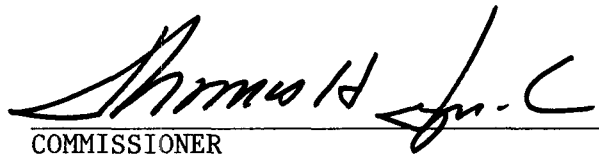
C. That the Audit Division is hereby directed to accordingly modify the Notice of Deficiency issued November 27, 1975; and, except as so granted, the petition is in all other respects denied.

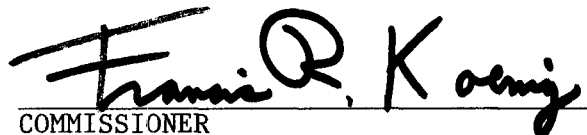
DATED: Albany, New York

STATE TAX COMMISSION

APR 03 1981


PRESIDENT


COMMISSIONER


COMMISSIONER