

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT W. & MARY N. EIDSON

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1970

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro, 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 19th day of July, 1973, she served the within Notice of Decision (or Determination) by (certified) mail upon Robert W. & Mary N. Eidson (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert W. & Mary N. Eidson
8908 Bridgehaven Court
Alexandria, Virginia 22308

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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 July, 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ~~VICE~~-PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 19, 1973

Robert W. & Mary M. Eidson
8908 Bridgehaven Court
Alexandria, Virginia 22308

Dear Mr. & Mrs. Eidson:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 Months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

L. Robert Leisner
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ROBERT W. and MARY N. EIDSON	:	DECISION
for Redetermination of a Deficiency	:	
or for Refund of Personal Income	:	
Tax under Article 22 of the Tax Law	:	
for the Year 1970.	:	

Petitioners, Robert W. and Mary N. Eidson, petitioned for a redetermination of deficiencies in personal income tax under Article 22 of the Tax Law for the year 1970.

The case was submitted for decision on information contained in the file.

ISSUE

Was income from a special two-year annuity from a former New York employer subject to New York income tax where the taxpayer moved to Virginia during the year 1970?

FINDINGS OF FACT

1. Petitioners, Robert W. and Mary N. Eidson, who moved to Virginia on February 1, 1970, timely filed New York State resident and nonresident income tax returns for the year 1970.

2. A denial of a refund in personal income tax for the year 1970 was issued on July 31, 1972, to the taxpayers under File No. 0-69000520.

3. The taxpayers petitioned for redetermination of the deficiencies. The letter of denial contained the following language:

"Referring to the item of income in the amount of \$3,788.95, we note your explanation that this income was not paid to you prior to February 1, 1970. However, it is our position that this income was accruable at the date of the change of residence, and that it should be included in your return for the resident portion of the year in accordance with the provisions of Section 654(c)(1) of the Personal Income Tax Law."

The taxpayers asserted the fact that this income was also subject to Virginia tax which made the income nontaxable in New York.

OPINION

The taxpayers' assertion that two states should not tax the same income does not control. The New York income is subject to New York tax. Presumably, Virginia can grant a credit to the taxpayers to avoid double taxation.

CONCLUSIONS OF LAW

The special two-year annuity payment from a New York employer to the taxpayers was subject to New York income tax during the year 1970.

The denial of the claimed refund is sustained.

DATED: Albany, New York
July 19, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER