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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR L. GRIMES & DORIS H. GRIMES

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) 1968 & 1969 :

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 November , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur L. &
Doris H. Grimes (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. Arthur L. Grimes
22 Sagamore Road
Bronxville, New York 10708

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 November , 1973

Joseph S. Van Patten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

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a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1968 & 1969

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 8th day of November , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Arthur L. & Doris
H. Grimes (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. Arthur L. Grimes
16 Stonehouse Road
Scarsdale, New York 10583

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

8th day of November , 1973.

James S. VanPatten

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR L. GRIMES & DORIS H. GRIMES :

For a Redetermination of a Deficiency or
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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 8th day of November , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Joseph B. Ullman, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Joseph B. Ullman, Esq.

Ullman, Riseman, Ploscowe & Delson
60 East 42nd Street
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 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

8th day of November , 1973.

Jayce S. Van Patten

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
Mario A. Procaccino
~~NORMAN F. GALLAGHER~~, ~~ACTING~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York
November 8, 1973

Mr. & Mrs. Arthur L. Grimes
16 Stonehouse Road
Scarsdale, New York 10583

Dear Mr. & Mrs. Grimes:

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,


Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
ARTHUR L. GRIMES and	:	
DORIS H. GRIMES	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1968 and 1969.	:	

Petitioners, Arthur L. Grimes and Doris H. Grimes, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1968 and 1969. (File No. 9-49211742). A calendar call was scheduled at the offices of the State Tax Commission, 80 Centre Street, New York, New York, for October 24, 1972, at 11:30 A.M. On October 13, 1972, petitioners, in writing, waived a formal hearing and consented to the issuance of a decision by the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUES

I. Were petitioners, Arthur L. Grimes and Doris H. Grimes, domiciled in Hong Kong during the years 1965, 1966 and 1967?

II. Was severance compensation received by petitioner, Arthur H. Grimes, during the years 1968 and 1969 in connection with services rendered in 1965, 1966 and 1967 subject to New York State personal income tax?

FINDINGS OF FACT

1. Petitioners, Arthur L. Grimes and Doris H. Grimes, filed New York State income tax resident returns for the period January 11, 1968 to December 31, 1968, and for the year 1969. They omitted from New York income in each of said years severance compensation received during the years 1968 and 1969 by petitioner, Arthur L. Grimes, for services rendered for his former employer in Hong Kong during the years 1965 through 1967. He received severance compensation totaling \$35,000.00 in 1968 and \$35,000.00 in 1969. They claimed a refund of \$3,737.50 in 1968 and \$4,586.42 in 1969.

2. On November 30, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Arthur L. Grimes and Doris H. Grimes, imposing additional personal income for the years 1968 and 1969, upon severance compensation received by him during said years for services rendered abroad from January 1965 to December 1967, upon the grounds that he was domiciled in New York State during said period and accordingly issued a Notice of Deficiency in the sum of \$409.40. In arriving at the tax due, they were given credit for New York State income tax withheld in the sum of \$3,737.50 for the year 1968 and \$4,598.42 for the year 1969.

3. Petitioner, Arthur L. Grimes, is a career advertising executive. His entire history and habit of life since his graduation from college in 1934 have been shaped by his activities in the advertising business, and since 1943 in the international aspects of that business.

4. Petitioner, Arthur L. Grimes, was born in 1912 in New York. In 1914, he moved with his parents to Orange, New Jersey, and subsequently to Montclair, New Jersey, where he spent his entire youth until he went away to college. In 1934, he married petitioner, Doris H. Grimes, and began work as a copywriter for the advertising firm of Lord & Thomas in New York. His home during this period remained in New Jersey, from which he commuted to work until 1936.

5. In 1936, petitioner, Arthur L. Grimes, was transferred to Lord & Thomas' office in Dayton, Ohio, where he lived and worked for five years, becoming acting manager of that office. In 1941, he moved back to New Jersey, where he became manager of a liaison office established by Lord & Thomas in the RCA plant at Camden, New Jersey, to handle all RCA advertising in the United States and overseas.

6. In 1943, petitioner, Arthur L. Grimes, was employed by J. Walter Thompson in New York. In that year, he established his home in Scarsdale, New York, where he lived, although at various addresses, until 1959. He remained with J. Walter Thompson until 1951 (with a brief interruption in 1944-1945 as a Naval Reserve officer in the Pacific). At J. Walter Thompson, he helped to organize and develop its international department in New York, and became assistant to the vice-president, International Operations, supervising the worldwide advertising of many large corporations. Ever since the beginning of this affiliation, he has been engaged in the development of advertising on an international basis.

7. In 1951, petitioner, Arthur L. Grimes, joined McCann-Erickson as associate head of its autonomous International Division with the title of associate director. Four years later he became vice-president and general manager of McCann-Erickson International, which had now acquired the status of a subsidiary company. In this capacity, it was his responsibility to integrate international operations with domestic, with primary responsibility for international, supervising both Europe and Latin America. He became a member of the Board of Management of McCann-Erickson and of its Plans Review Board and Marketing Plans Board, participating in all planning of major international clients. His principal efforts were devoted to new business and growth.

8. Beginning in 1943, petitioner, Arthur L. Grimes, traveled extensively on behalf of his employers as part of his regular international duties, and thus became familiar with many parts of the world, developing business relationships and personal friendships not only in Europe and Latin America, but in Australia, Japan and other parts of the Far East. His travels took him abroad for periods of three to six months each year.

9. The Far East had had an interest and attraction for petitioner, Arthur L. Grimes, from his childhood, growing out of family associations. His father was an amateur magician, greatly interested in oriental magic, who instilled in his son some of his own fascination with people of Chinese and Japanese extraction, with whom he sought to discuss his hobby at every opportunity. From his tenth year until he left for college, his family had Japanese executives actually living in their home in Montclair,

New Jersey, where his parents were members of the Cosmopolitan Club, which sponsored this activity as an exercise in international friendship. As a result, he and his family developed lasting friendships with Japanese families, with some of whom they still correspond and some of whom he still visits when in Japan.

10. During World War II, petitioners, Arthur L. Grimes and Doris H. Grimes, made the acquaintance of a Chinese advertising man named C.P. Ling, formerly the owner of the largest advertising agency in Shanghai, who had escaped from China just before the Communists took control and who spent the war years here lecturing at Fairleigh Dickinson University. They developed an admiration for and a lasting friendship with Mr. Ling, who subsequently returned to the Far East and reestablished himself in the advertising business, organizing the China Commercial Agency in Hong Kong. He was joined in this enterprise by his three sons, who had later escaped from Communist China. In the course of subsequent visits to Hong Kong, they became friendly with the sons as well.

11. Petitioner, Doris H. Grimes, also developed a major interest linked with the Far East. An artistic person, whose physical activities have been somewhat restricted for many years by chronic phlebitis, resulting in periodic hospitalization, she was fond of flowers and became much involved in the study and practice of the highly developed art of Ikebana, or Japanese flower arrangement. The art has an enthusiastic international following. She has been an exhibitor and an active member of the International Ikebana Society in several countries, has studied

in Japan and is a qualified Ikebana teacher. Through her activities as an officer in the Society, she has developed many close friends with the same interest in Australia, Japan and Hong Kong, as well as in this country.

12. In the course of his service with McCann-Erickson International, petitioner, Arthur L. Grimes, became increasingly convinced that the future of the company lay in outstripping its competition by becoming truly international, and expanding its operations to the burgeoning markets of the Far East before other agencies preempted the field. He, therefore, persistently and repeatedly urged the management of McCann-Erickson and of Interpublic (The Interpublic Group of Companies, Inc.), its top parent company, to investigate and develop that area. Largely as a result of his own initiative in this direction, he, by this time executive vice-president of McCann-Erickson International, was sent to Australia in 1959 to find a way to enter the Pacific. In the course of several months there, he assessed the possibilities, selected the best alternatives and developed a plan for the acquisition of Hansen-Rubensohn, a large and successful Sydney agency, which would give McCann-Erickson immediate entree to the Australian market on a large scale. He returned to New York with a fully negotiated proposal which was in due course accepted by his employer, and which established a pattern for the subsequent successful expansion of McCann-Erickson throughout the Far East.

13. Late in the same year, petitioner, Arthur L. Grimes, was offered the opportunity to take up residence in Sydney to

implement the partnership plan, to organize the Sydney office of what became Hansen-Rubensohn-McCann-Erickson and other offices of that enterprise in Australia, to inculcate McCann-Erickson methods and standards, and to use Sydney as a base for further trips throughout the Far East in order to gain entrance to other markets in the area. At this time, petitioners, Arthur L. Grimes and Doris H. Grimes, had lived for 13 years in Scarsdale, New York. They owned a home there, purchased only a few months before. Their youngest child was then still in public school and living at home; their two older children were already married and had their own respective homes and families in California and in upstate New York. Accepting the proffered assignment, petitioner, Arthur L. Grimes, sold his Scarsdale home at a substantial loss and moved with his wife and daughter to Sydney, Australia, where his daughter continued her schooling and where the family lived for approximately two years.

14. During that period, additional company offices were established in Adelaide, Australia, and Melbourne, Australia. Petitioner, Arthur L. Grimes, traveled repeatedly to India, Thailand, Malaysia, Hong Kong, Japan, the Philippines and New Zealand. Following the pattern established in Sydney, Australia, he initiated varying arrangements to open McCann-Erickson offices or to acquire or organize joint ventures with local agencies in India, the Philippines, Japan (McCann-Erickson-Hakuhodo) and Hong Kong, where he approached his friends, the Lings with proposals to bring them into the McCann-Erickson orbit. Offices in Tokyo and Osaka were opened in 1961.

15. In 1962, McCann-Erickson and Interpublic moved their international headquarters from New York to Geneva, Switzerland. At this time of rapid growth and reorganization, petitioner, Arthur L. Grimes, was transferred to Europe to assist McCann-Erickson-London to organize a new business operation, to lay plans for the future development of Interpublic in England and to assist in the reorganization of the enterprise throughout Europe. In order to perform his new duties, he moved with his wife and daughter on short notice in March 1962 to London, where they took a seven-year lease on a flat. Their daughter entered St. John's Wood School of Art, where she met and married a British subject. She has ever since resided abroad.

16. Petitioners, Arthur L. Grimes and Doris H. Grimes, remained residents in London until early in 1963. In January of that year, petitioner, Arthur L. Grimes, went to Mexico on an extended business trip, and in due course, his wife joined him in Mexico City. They stayed there for about six months during which they lived in a hotel apartment. In July they proceeded to New York, where he was directed to remain on temporary assignment. He remained executive vice-president of McCann-Erickson International, but assumed certain domestic duties as well, being "on loan" to McCann-Erickson and Interpublic in New York. His functions were to assist the corporate offices overseas to secure more business from the United States and to use his international contacts to secure more business in the United States for the domestic company.

17. Upon his assignment to New York in July 1963, petitioner, Arthur L. Grimes, rented an apartment on East 50th Street near his office, which he and his wife occupied until they moved from New York in February 1965.

18. During taxpayers' year and a half of residence in New York, the plans initiated by petitioner, Arthur L. Grimes, in the Far East between 1959 and 1962 continued to be implemented. Four McCann-Erickson offices in India were organized in 1964, an office in Manila and a joint venture with the Lings in Hong Kong (Ling-McCann-Erickson). Between 1959, when he began his Far Eastern negotiations in Australia, and 1965 when he returned to the Pacific, McCann-Erickson billings in the area had grown from zero to some \$20,000,000.00 annually.

19. Under these circumstances, the McCann-Erickson and Interpublic management determined in late 1964 and early 1965 that the corporate organization in the Pacific had grown to a point which required an administrative office in the area to coordinate and supervise the activities of the various components. They also deemed it advisable to maintain a permanent central facility in the Far East from which to effect further development in the area. Various alternative locations, including Australia and Japan, were considered and rejected in favor of Hong Kong, which was centrally located within four air hours of the entire territory excepting Australia. The choice of Hong Kong was to some extent influenced by the recommendations of petitioner, Arthur L. Grimes, who hoped to be

placed in charge of the area office and who personally favored Hong Kong over other alternatives because of the desirable living conditions available there.

20. Petitioner, Arthur L. Grimes', assignment in Hong Kong differed in nature from his earlier foreign assignments. In Australia and London he had been primarily concerned with matters of growth and development. At the time of his assignment to Hong Kong, the Asia-Pacific area was already established as a producer of volume business. Ten offices had been opened, flung out over a territory of enormous extent and under diverse local managements. His new assignment was to coordinate and administer this new empire as regional executive of McCann-Erickson International, and later as regional executive of Interpublic which comprised marketing, consulting and public relations components in addition to advertising. This job, unlike his earlier assignments, involved not only continued duties in the areas of growth and development but also permanent administrative and management functions. A Hong Kong subsidiary was organized under the name of Interpublic Ltd., which was conceived of as a permanent area headquarters of Interpublic under his direction.

21. Before petitioners, Arthur L. Grimes and Doris H. Grimes, left New York in February 1965, local contacts which they had established in New York 1963, were terminated or appropriately modified upon their departure. They cancelled their membership in the Episcopal Church at 50th Street and Park Avenue. Petitioner,

Arthur L. Grimes, cancelled his membership in the New York Chapter of the International Advertising Association, which included a directorship in the Association. He cancelled his membership in the Dartmouth Club of New York, and she cancelled her membership in the New York Chapter of the Ikebana Society. Charge accounts in New York stores were cancelled, and all credit and charge cards surrendered including American Express and Diners' Club. He closed out his brokerage account with E. F. Hutton & Co. in New York. Memberships in the Scarsdale Golf Club and the Scarsdale Woman's Club were changed from resident to nonresident status. The nonresident dues of \$100.00 semiannually were accepted as a proper business expense by his employer, and were reimbursed to him by Interpublic Ltd.

22. When petitioners, Arthur L. Grimes and Doris H. Grimes, moved from New York to Hong Kong, they disposed of about three quarters of their furniture, works of art and furnishings by sale or by gift to their children and to his mother. The remainder, including some furniture which they deemed it uneconomic to ship to Hong Kong and had not yet decided how to dispose of, and a number of paintings about which they were also undecided, were stored in New York at company expense. No change had yet been made in these arrangements at the termination of his employment.

23. In March 1965, petitioner, Arthur L. Grimes, arrived in Hong Kong as regional executive of McCann-Erickson International, for all the countries of the Pacific, and as managing

director (chief executive officer) of Interpublic Ltd., the new Hong Kong subsidiary organized to supervise the offices of McCann-Erickson International and its affiliates and partners throughout the area. He subsequently became regional executive for the Interpublic Group of Companies, Inc., the parent organization of McCann-Erickson. Following his arrival in Hong Kong, he also became a director of Ling-McCann-Erickson, where he participated actively in matters concerning the advertising of its international clients.

24. Upon petitioners, Arthur L. Grimes and Doris H. Grimes', arrival in Hong Kong, they took temporary quarters in the Hongkong Hilton Hotel while seeking for suitable office space for Interpublic Ltd. and a home for themselves. For a few weeks, they used a single suite in the hotel as both living quarters and office. During April, however, having found the Hongkong Hilton Hotel convenient and desirable, they made permanent arrangements with the hotel on the basis of which the office of Interpublic Ltd. was established in Suite 2301 and their living quarters in the adjoining Suite 2302. Quite a number of international corporations maintained area headquarters in the Hongkong Hilton Hotel at this time.

25. The Hongkong Hilton Hotel, with 900 rooms, is the largest hotel in the Far East. It contains a large number and variety of shops, restaurants and bars, and in addition provides all the facilities of a resort, including a swimming pool, suana, clubrooms, automobile service and yacht service

(even rickshaw service). There is a bank on the premises and other banks, shops and restaurants in the immediate vicinity. Petitioner, Arthur L. Grimes, arranged with the hotel for a structural alteration in the two suites so that they could be separated or thrown together. This made the entire space available for personal as well as business entertaining. The hotel had 1,200 servants, with a maid and personal house-boy regularly assigned to each room. Petitioners, Arthur L. Grimes and Doris H. Grimes, embellished the suite with works of oriental art which they continually accumulated, and with incidental furniture and furnishings to supplement that supplied by the Hongkong Hilton Hotel, which was itself exceptional, including handsome pieces collected from throughout the Orient. In the course of their residence, they purchased several thousand dollars worth of paintings, furniture and furnishings.

26. The luxury of hotel living at the Hongkong Hilton Hotel was particularly desired because of the physical relief it afforded petitioner, Doris H. Grimes. Her phlebitis condition was notably improved in Hong Kong, and was in fact less troublesome than at any other period in taxpayers' memories. She was thus enabled to travel more extensively with her husband and to entertain, both at home and on trips to other parts of the area. Petitioners, Arthur L. Grimes and Doris H. Grimes, entertained a great deal and led a very active and pleasant social life. They had many friends in Hong Kong, including a number of Orientals, particularly Chinese and

Japanese, some of whom were business associates but many of whom were not. Hong Kong has a large international business colony and a population of over 5,000 Westerners including about three thousand Americans. Taxpayers made many good friends there, and knew many others from previous contacts made both there and elsewhere. In addition, Hong Kong is a central transportation point for Asian travel and commerce, and many of their other friends from the United States and other parts of the world passed through it from time to time. They were thus able to maintain their social contacts to an unusual degree.

27. The colony is under British rule. Its legal system is based on the common law of England.

28. In Hong Kong, petitioner, Arthur L. Grimes, established membership in the American Club, the Foreign Correspondents' Club, the Japanese Club and the Dartmouth Club of Hong Kong. These were not nominal, but active social memberships. Frequent use was made of the dining and clubhouse facilities of these organizations, including moving pictures and other entertainment programs.

29. Petitioner, Doris H. Grimes, joined the American Women's Association, a charitable organization devoted to volunteer work and fund raising for local charities, which also led to social contacts, and the Hong Kong Chapter of Ikebana, in which she took an active part studying, exhibiting, attending meetings and lectures, and doing committee work. Petitioner, Arthur L. Grimes, joined the Hong Kong Chapter of the International Advertising Association, which he represented at an all Asia conference.

30. Petitioners, Arthur L. Grimes and Doris H. Grimes, attended and with some regularity contributed to the Episcopal Cathedral and the Community Church in Hong Kong. They contributed also to various local charities, directly and through the American Women's Association. They contributed to the Association and its Christmas Fund, as well as to the Hong Kong Cultural Society, the Hua Hsing Children's Home, the Welfare Handicraft Shop and American University Club benefits. In 1965, they contributed to the New York Fresh Air Fund.

31. Petitioners, Arthur L. Grimes and Doris H. Grimes, opened accounts with Hong Kong department stores and shops, and took out Hong Kong cards from American Express and Diners' Club. He opened a brokerage account with the Hong Kong office of Merrill, Lynch, Pierce, Fenner and Smith. All of his dealings were with Merrill, Lynch's Hong Kong office. Most of his trading was on a short term basis, and all securities were therefore carried in street name and held by Merrill, Lynch.

32. Petitioner, Arthur L. Grimes, paid Salaries Tax to the Hong Kong government as a resident, throughout his stay there, beginning with the March 1964-1965 tax year, and ending with March 1967-1968. This tax is based upon income derived from services rendered in Hong Kong. A persons domicile does not effect his liability for said tax. Petitioners, Arthur L. Grimes and Doris H. Grimes, were registered as Hong Kong residents with the local U. S. Consulate. Mr. Grimes executed a new codicil to his will in March 1967, in which he listed his address as the Hongkong Hilton Hotel, Hong Kong, B.C.C.

33. As an Interpublic employee, petitioner, Arthur L. Grimes, was paid not in sterling, but in hard currency. In 1965, his payments were made by Interpublic S. A., Geneva, in Swiss francs. He retained a New York account at Chemical Bank and arranged to have his salary deposited directly in that account, on which he drew to meet his hard currency obligations, to make gifts to his children and to pay travel expenses. However, petitioners, Arthur L. Grimes and Doris H. Grimes, opened a local currency account in Hong Kong, to which they periodically transferred substantial amounts from New York, and which they used as a household account out of which they paid their rent, their local purchases and all ordinary living expenses. They also rented and used a safe deposit box in Hong Kong.

34. After their arrival in Hong Kong in March 1965, petitioners, Arthur L. Grimes and Doris H. Grimes, did not visit New York until February 1966, when they were present here for two weeks. They did not visit the state again until March 1967. He made two short visits later in the year for business conferences.

35. During 1965, 1966 and 1967, petitioner, Arthur L. Grimes, traveled extensively throughout the Far East in the course of his business duties.

36. Petitioners, Arthur L. Grimes and Doris H. Grimes, did not maintain a permanent place of abode in New York State from February 1965 until their return to New York State in January 1968. Since the sale of their house in Scarsdale in 1960, they had not owned any real property in New York State, or indeed in the United States, until January 1968. While in New York City from 1963 to 1965,

they rented an apartment, which they surrendered when they departed for Hong Kong. They retained no quarters of any kind in the United States from February 1965 until January 1968.

37. Petitioners, Arthur L. Grimes and Doris H. Grimes, never voted in New York State from the time of taxpayers' departure to Australia in 1959, until they moved here from Hong Kong in 1968. However, they did register to vote in 1963.

38. In the latter part of 1967, Interpublic faced a sudden financial crisis, as a result of overextension on the part of its then management. Over six hundred employees were discharged. Petitioner, Arthur L. Grimes, was notified on December 19, 1967, that his job was being eliminated, that Interpublic Ltd. was being liquidated and its Hong Kong office closed down, and that his employment was being terminated at the end of the year. He surveyed the possibilities of other employment in Hong Kong and elsewhere in the Pacific. He was, however, unable to find any opening remotely comparable to the job which he was losing.

39. Petitioner, Arthur L. Grimes, was unable to find employment in his field outside of New York State after the termination of his employment on December 19, 1967. He and his wife returned to New York State on January 11, 1968. They acquired a home in Scarsdale, New York. He accepted a position with a New York advertising agency.

40. Pursuant to the terms of his contract of employment, petitioner, Arthur L. Grimes, received severance pay from his former employer of one year's salary payable over two years. He received \$35,000.00 in each of the years 1968 and 1969.

CONCLUSIONS OF LAW

A. That petitioners, Arthur L. Grimes and Doris H. Grimes, were domiciled in New York State during the years 1965, 1966, 1967, 1968 and 1969.

B. That petitioners, Arthur L. Grimes and Doris H. Grimes, were resident individuals of New York State during the year 1965 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2 since they were domiciled in and spent more than 30 days in New York State during said year.

C. That petitioners, Arthur L. Grimes and Doris H. Grimes, were nonresident individuals of New York State during the years 1966 and 1967 in accordance with the meaning and intent of sections 605(a)(1) and 605(b) of the Tax Law and 20 NYCRR 102.2 since they were domiciled in New York State, but did not maintain a permanent place of abode in New York State, spent not more than 30 days in New York State and maintained a permanent place of abode outside of New York State during each of said years.

D. That petitioners, Arthur L. Grimes and Doris H. Grimes, were resident individuals of New York State during the years 1968 and 1969 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2 since they were domiciled in, maintained a permanent place of abode in and spent more than 30 days in New York State during each of said years.

E. That since petitioner, Arthur L. Grimes, was a resident individual of New York State during the years 1968 and 1969, therefore his New York adjusted gross income for said years, in accordance with the meaning and intent of section 612 of the Tax


Law, was his Federal adjusted gross income as defined in the laws of the United States for said years subject to reduction by the modifications specified in section 612(c) of the Tax Law. Severance compensation received by him for services rendered in prior years while a nonresident is not one of the modifications reducing Federal adjusted gross income as set forth in section 612(c) of the Tax Law.

F. That section 654(c)(3) of the Tax Law provides that no item of income accrued under section 654(c) of the Tax Law shall be taken into account in determining New York adjusted gross income for any subsequent taxable period. However, the provisions of section 654(c) of the Tax Law are only applicable if a change of residence occurs during the course of a taxable year. Such a change during the course of a year can only occur if there is a change of domicile during the course of said year. Therefore, since petitioner, Arthur L. Grimes, did not change his domicile and since he was a resident during all of the year 1965, and a nonresident during all of the years 1966 and 1967, he was not entitled to take advantage of the accrual provisions provided for by section 654 of the Tax Law and thereby to exclude any portion of his severance compensation received during the years 1968 and 1969 from his New York adjusted gross income for said years.

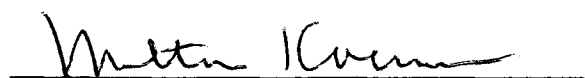
G. That the petition of Arthur L. Grimes and Doris H. Grimes is denied and the Notice of Deficiency issued November 30, 1970, is sustained.

DATED: Albany, New York
November 8, 1973

STATE TAX COMMISSION


COMMISSIONER

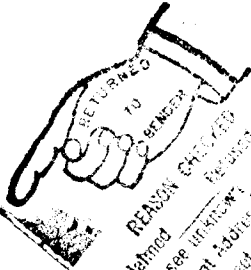

COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227



REASON CHECKED
☐ Undelivered
☐ Addressee unknown
☐ Insufficient address
☐ No such street
☐ No such office in State
☐ Do not retail in this State
moved 9/14/60
Address

Mr. & Mrs. Arthur L. Grimes
 16 Stonehouse Road
 Scarsdale, New York 10583

22 SAGAMORE ROAD
 BRONXVILLE, NEW YORK 10708



292-01-1460