

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY KEER AND BARBARA KEER

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) 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 16th day of January, 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Stanley and
Barbara Keer (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Stanley and Barbara Keer
2350 Route 10
Morris Plains, New Jersey 07950

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

16th day of January, 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, 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
January 16, 1973

Stanley and Barbara Keer
2350 Route 10
Morris Plains, New Jersey 07950

Dear Mr. and Mrs. Keer:

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	:	
STANLEY KEER and BARBARA KEER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1969.	:	

Petitioners, Stanley Keer and Barbara Keer, have filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1969. (File No. 9-49267909). A calendar call was scheduled before Hon. A. Bruce Manley, State Tax Commissioner, at the offices of the State Tax Commission, Building 9, State Campus, Albany, New York for September 11, 1972, at 11:15 A.M. On September 1, 1972, petitioner, Stanley Keer, in writing on behalf of the petitioners, waived a formal hearing and consented to the issuance of a decision without the introduction of additional evidence. The State Tax Commission renders the following decision after due consideration of the record.

ISSUE

Were petitioners, Stanley Keer and Barbara Keer, residents of New York State during the year 1969?

FINDINGS OF FACT

1. Petitioners, Stanley Keer and Barbara Keer, filed a New York State income tax resident return for the period from

January 1, 1969 to May 20, 1969. They did not file a New York State income tax nonresident return for the period May 21, 1969 to December 31, 1969, since they contended that they were non-residents and did not have any income attributable to New York State during said period. Their taxable income, as per their Federal income tax return for said year was \$12,895.68. They allocated \$6,197.81 to the period prior to May 21, 1969, and \$6,697.87 to the period subsequent to said date.

2. On April 26, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Stanley Keer and Barbara Keer, imposing New York State personal income tax upon all of their income for the year 1969 upon the grounds that they did not change their domicile during said year and, therefore, all of their earnings for said year as reported for Federal income tax purposes were subject to tax. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$616.70.

3. Petitioners, Stanley Keer and Barbara Keer, lived and worked in New York State prior to May 20, 1969. On May 21, 1969, they moved from New York to West Germany in connection with petitioner, Stanley Keer's employment overseas. They gave up their New York home. They rented a residence in West Germany. After living overseas for approximately two years, they returned to the United States and established a residence in New Jersey.

4. Petitioners, Stanley Keer and Barbara Keer, failed to submit any documentary or other substantial evidence to prove that they had changed their domicile from New York State to

West Germany as of May 21, 1969, or that they maintained a permanent place of abode in West Germany subsequent to May 20, 1969.

CONCLUSIONS OF LAW

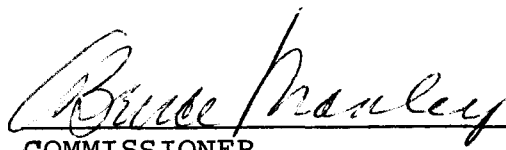
A. That petitioners, Stanley Keer and Barbara Keer, were resident individuals of New York State during the entire year of 1969 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law since they were domiciled in and spent more than thirty days in New York State during said year.

B. That the petition of Stanley Keer and Barbara Keer is denied and the Notice of Deficiency issued April 26, 1971, is sustained.

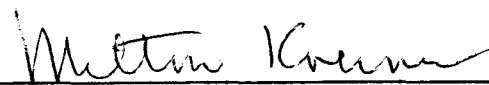
DATED: Albany, New York
January 16, 1973

STATE TAX COMMISSION

COMMISSIONER



COMMISSIONER



COMMISSIONER