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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELLIOT M. GROSS & SHEILA F. GROSS

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

For a Redetermination of a Deficiency or
a Refund of Personal Income :
Taxes under Article(x) 22 of the
Tax Law for the Year(s) 1964 & 1966 :

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 30th day of December , 1974, she served the within Notice of Decision (~~xx-DESHAM-xx~~) by (certified) mail upon Elliot M. & Sheila F.

Gross ~~(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. Elliot M. Gross
58 Avondale Road
West Hartford, Connecticut 06117

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

30th day of December , 1974.

30th day of December, 1974.
Janet Macd

Martha Suarez

AD 92 (8-79) 250M

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227

Mr. and Mrs. Elliot M. Gross
431 East 20th Street
New York, New York

CERTIFIED

No. 202036

MAIL

W. Gross
for
Ad

ADDRESSEE UNKNOWN
NEW YORK, N. Y. 10010

Not in Directory

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELLIOT M. GROSS and SHEILA F. GROSS

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

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year(s) 1964 and 1966:

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 23rd day of December , 1974, she served the within
Notice of Decision ~~(xx) (xxxxxx) (xxxxxx)~~ by (certified) mail upon ELLIOT M. GROSS and

SHEILA F. GROSS ~~(xxxxxx) (xxxxxx) (xxxxxx)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. and Mrs. Elliot M. Gross
431 East 20th Street
New York, New York

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)~~
~~xx~~ 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

23rd day of December , 1974.

Janet Maech

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELLIOT M. GROSS and SHEILA F. GROSS

For a Redetermination of a Deficiency or
a Refund of Personal Income :
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year(s) 1964 and 1966.:

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 23rd day of December , 1974, she served the within
Notice of Decision ~~(BY CERTIFIED MAIL)~~ by (certified) mail upon RICHARD H. SONET, CPA

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Richard H. Sonet, C.P.A.
660 Madison Avenue
New York, New York 10021

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

23rd day of December , 1974.

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
December 23, 1974

Mr. and Mrs. Elliot M. Gross
431 East 20th Street
New York, New York

Dear Mr. and Mrs. Gross:

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

AD-1.12 (8/73)

STATE TAX COMMISSION

In the Matter of the Petition :
of :
ELLIOT M. GROSS and SHEILA F. GROSS : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Years 1964 and 1966. :

ISSUE

FINDINGS OF FACT

1. Petitioners, Elliot M. Gross and Sheila F. Gross, filed New York State combined income tax returns for the period from January 1, 1964 to June 30, 1964, and for the period from August 1, 1966 to December 31, 1966.

2. On August 26, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Elliot M. Gross, imposing additional personal income tax for the year 1964 in the sum of \$262.16 and for the year 1966 in the sum of \$221.41 upon the grounds that they were resident individuals of New York State during all of said years. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$554.58. It was stipulated at the formal hearing that the Notice of Deficiency and Statement of Audit Changes would be considered to have been also issued against petitioner, Sheila F. Gross.

3. Prior to June 30, 1964, petitioners, Elliot M. Gross and Sheila F. Gross, were domiciliaries of New York State. They resided at 230 Jay Street, Brooklyn, New York.

4. Petitioner, Elliot M. Gross, was a pathologist. He enlisted in the United States Air Force at the rank of Captain commencing in August 1964. He was assigned to Bolling Air Force Base in Washington, D.C. In July 1964, he and his wife moved to an apartment located at 8601 Manchester Road, Silver Spring, Maryland. The apartment was not located on a military base. They moved all of their household goods to Maryland and vacated their apartment in Brooklyn. They remained there until he was discharged from the service. They returned to New York State on August 1, 1966 and rented an apartment at 431 East 20th Street, New York, New York. They spent more than 30 days in New York State during each of the years 1964 and 1966.

5. Petitioners, Elliot M. Gross and Sheila F. Gross, filed Maryland resident individual income tax returns for the period from July 1, 1964 through December 31, and for the year 1965. They filed a Maryland nonresident individual income tax return for the period from January 1, 1966 through July 31, 1966, but they stated on the return that they were Maryland residents during said period.

6. Petitioners, Elliot M. Gross and Sheila F. Gross's total gross New York income for the year 1964 was \$18,194.03 of which \$11,180.90 was earned by petitioner, Elliot M. Gross, and \$7,013.13 was earned by petitioner, Sheila F. Gross. Their total gross New York income for the year 1966 was \$16,124.24 of which \$13,563.14 was earned by petitioner, Elliot M. Gross, and \$2,561.10 was earned by petitioner, Sheila F. Gross.

CONCLUSIONS OF LAW

A. That petitioners, Elliot M. Gross and Sheila F. Gross, were domiciled in New York State during the entire years of 1964, 1965 and 1966, in accordance with the meaning and intent of 20 NYCRR 102.2(d). They did not change their domicile from New York State to Maryland on July 1, 1964.

B. That since petitioners, Elliot M. Gross and Sheila F. Gross, were domiciled in New York State during the years 1964 and 1966 and spent more than 30 days in New York State during each of said years, therefore, they were resident individuals of New York State during all of said years, in accordance with the meaning and intent of

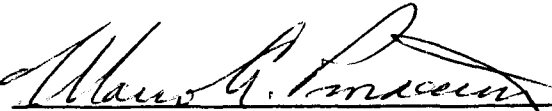
section 605(a)(1) of the Tax Law and 20 NYCRR 102.2 and all of their income, including income earned while residing in Maryland, was subject to New York State personal income tax.


C. That the Income Tax Bureau in the Statement of Audit Changes incorrectly attributed unreported income earned by petitioner, Sheila F. Gross, during the years 1964 and 1966 to petitioner, Elliot M. Gross. The proper attribution of income for said years between the parties is set forth in paragraph "6" of this decision.

D. That the petition of Elliot M. Gross and Sheila F. Gross is granted to the extent of decreasing additional personal income tax owed by petitioner, Elliot M. Gross, for the year 1964 from \$262.16 to \$99.18 and for the year 1966 from \$221.41 to \$125.65, together with such interest as may be lawfully due, and of increasing additional personal income tax owed by petitioner, Sheila F. Gross, for the year 1964 from \$0.00 to \$125.71 and for the year 1966 from \$0.00 to \$36.33, together with such interest as may be lawfully due; and, that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER