

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM C. THOMA and
BETTY M. THOMA

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year ~~(8)~~ 1969.

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

State of New York
County of Albany

JANET MACK, 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 27th day of August, 1975, she served the within
Notice of Decision ~~(XXXXXXXXXXXX)~~ by (certified) mail upon William C. Thoma

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. William C. Thoma
353 Ocean Avenue
Brooklyn, New York 11226

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

27th day of August, 1975.

Mary Groff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
James H. Tully, Jr.
~~SECRETARY TO COMMISSION~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2696

DATED: Albany, New York
August 27, 1975

Mr. William C. Thoma
353 Ocean Avenue
Brooklyn, New York 11226

Dear Mr. Thoma:

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

Please take further notice that pursuant to
Section ~~60~~ **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: ~~State Tax Commission~~ Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
WILLIAM C. THOMA and	:	
BETTY M. THOMA	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1969.	:	

Petitioner, William C. Thoma, residing at 353 Ocean Avenue, Brooklyn, New York, and Betty M. Thoma (address unknown), 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. 9-69864008.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 28, 1975, at 9:00 A.M. Petitioner, William C. Thoma, appeared pro se and for his ex-wife, Betty M. Thoma. The Income Tax Bureau appeared by Saul Heckelman, Esq., (James A. Scott, Esq., of counsel).

ISSUE

Were petitioners, William C. Thoma and Betty M. Thoma, New York State domiciliaries during the year 1969?

FINDINGS OF FACT

1. Petitioners, William C. Thoma and Betty M. Thoma, filed a New York State income tax resident return for the period from January 1, 1969 to June 23, 1969, and a New York State income tax nonresident return for the period from June 24, 1969 to December 31, 1969. They indicated a balance due of \$64.00 on the resident return and claimed a refund of \$134.00 on the nonresident return.

2. On April 20, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, William C. Thoma and Betty M. Thoma, imposing additional personal income tax for the year 1969 in the sum of \$505.60 upon the grounds that they were domiciliaries and residents of New York State for the entire year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$594.99.

3. Petitioner, William C. Thoma, was born in Brooklyn, New York, on June 26, 1921. His family moved to Cedar Knolls, New Jersey in May, 1940. He was a career officer in the United States Army from June, 1942 to December, 1946, and from March, 1949 until June, 1966, when he retired. He married his first wife, petitioner, Betty C. Thoma, in 1946 in Brooklyn, New York. At the time of the marriage he was stationed and living in Fort Lewis, Washington. Between December, 1946 and March, 1949, he was a student at New York University residing at 182 Sullivan Place, New York, New York.

This was his father-in-law's home.

4. In June, 1966, upon his retirement from the United States Army, petitioner, William C. Thoma, was employed by Radio Liberty Committee, Inc. as assistant director of the U.S. Division in their New York office. He and his wife purchased a home on Spring Valley Road in Ossining, New York, in August, 1966. He joined Radio Liberty Committee, Inc. with the understanding that he would be transferred to its Munich, West Germany office when a vacancy occurred there. His children attended New York schools. He was not a member of any social, religious or other organizations in New York State or in New Jersey other than the West Point Officers Club and the N.Y.U. Alumni Association.

5. In June, 1969, petitioner, William C. Thoma, was transferred to the Munich, West Germany office of Radio Liberty Committee, Inc. as assistant director for the study of the U.S.S.R. He and his wife sold their home in Ossining, New York. He was divorced from petitioner, Betty M. Thoma, in 1971. He married his second wife on December 9, 1971, in the State of New Jersey while on leave. His position was terminated in July, 1972. Upon returning to the United States, he lived with second wife in her apartment located at 353 Ocean Avenue, Brooklyn, New York, which is their present residence.

6. Petitioner, William C. Thoma, executed a will in November, 1953 while in active military service. He stated in said will that he was a legal resident of Cedar Knolls, New Jersey. He executed a second will in December, 1973. He stated in said will that he was a legal resident of New Jersey.

7. Petitioner, William C. Thoma, registered to vote in New Jersey on June 24, 1969. He voted by absentee ballot in the 1969 and 1974 general elections. He never voted in the State of New York.

8. Petitioner, William C. Thoma, did not maintain a bank account in the State of New York. His sole banking account was a checking account with the Army National Bank, Fort Leavenworth, Kansas.

9. Petitioner, William C. Thoma, was commissioned as a regular office in the United States Army from the State of New Jersey. All of his army records used the Cedar Knolls, New Jersey address, which was the family homestead where his father resided, as his official and permanent home of record.

10. Petitioner, William C. Thoma, maintains a New Jersey driver's license and motor vehicle registration.

11. Petitioners, William C. Thoma and Betty M. Thoma, spent less than 183 days in New York State during the year 1969.

12. Petitioner, William C. Thoma, earned \$6,933.45 in New York State during the year 1969. Petitioner, Betty M. Thoma,

earned \$2,515.43 in New York State during said year.

CONCLUSIONS OF LAW

A. That petitioners, William C. Thoma and Betty M. Thoma, were domiciliaries of the State of New Jersey during the year 1969. They never acquired a New York State domicile.

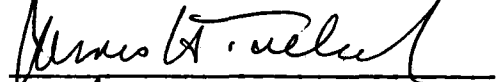
B. That since petitioners, William C. Thoma and Betty M. Thoma, were not domiciled in New York State and spent less than 183 days in New York State during the year 1969, therefore, they were nonresident individuals for the year 1969 in accordance with the meaning and intent of sections 605(a) (2) and 605(b) of the Tax Law, and only their income actually earned in New York State was subject to the New York State personal income tax.

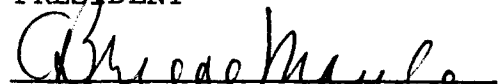
C. That the petition of William C. Thoma and Betty M. Thoma is granted; that the Notice of Deficiency issued April 20, 1972, is cancelled; and that the Income Tax Bureau is hereby directed to refund to them the sum of \$146.30 together with such interest as may be lawfully due.

DATED: Albany, New York

August 27, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER