

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
CARL D. & ELIZABETH A. GREENE
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article (a) 22 of the
Tax Law for the Year(s) or Period(s)
1971

AFFIDAVIT OF MAILING

State of New York
County of Albany

Marsina Donnini, 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 15th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Carl D. & Elizabeth A. Greene ~~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. Carl D. Greene
3512 Blue Marlin Circle
Virginia Beach, Virginia 23452
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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~representative~~ ~~of the~~ 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
15th day of July, 1977

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 15, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. & Mrs. Carl D. Greene
3512 Blue Marlin Circle
Virginia Beach, Virginia 23452

Dear Mr. & Mrs. Greene:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~61~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

JOSEPH CHYRYWATY
Hearing Examiner

cc: ~~Petitioner's Representative~~
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
CARL D. and ELIZABETH A. GREENE
for Redetermination of a Deficiency or for
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the
Year 1971.

DECISION

Petitioners, Carl D. and Elizabeth A. Greene, residing at 3512 Blue Marlin Circle, Virginia Beach, Virginia 23452, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1971 (File No. 1164).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on November 19, 1976 at 10:45 a.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Elizabeth A. Greene. The Income Tax Bureau appeared by Peter Crotty, Esq., (William Fox, Esq., of counsel).

ISSUE

Whether petitioners changed their domicile during the year 1971.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, Carl D. Greene, entered the United States Naval Service on August 10, 1962, as a resident of New York State.

2. Petitioner resided with his wife in an apartment in New York from January 1, 1971 to February 14, 1971. At that time, petitioner, Carl D. Greene, was reassigned to Florida and, as a result, abandoned his apartment in New York.

3. While the arrangements for their Florida transfer were being made, petitioners resided in New Jersey at the home of their in-laws, during the period February 15, 1971 to March 3, 1971.

4. On March 4, 1971, the petitioners arrived in Florida and resided in temporary quarters until April 2, 1971, when they moved into their own home.

5. Petitioners obtained drivers' licenses from, and registered their automobiles in the State of Florida. In addition, they filed affidavits of Florida residency and voted in the State of Florida.

6. Although the petitioners are currently residing in California pursuant to military orders, they maintain that Florida is still their legal domicile, and that they intend to return there upon completion of military service.

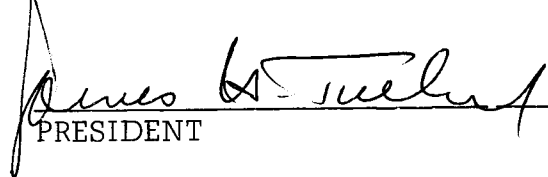
7. That the petitioners, Carl D. and Elizabeth A. Greene, effectively established a new domicile in the State of Florida on April 2, 1971, in accordance with the meaning and intent of 20 NYCRR 102.2(d).

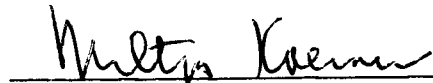
8. That the petition of Carl D. and Elizabeth A. Greene is granted to the extent that their New York State personal income tax liability shall be computed for the period January 1, 1971 to April 1, 1971 in accordance with section 654 of the Tax Law.


9. That the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued July 29, 1974; and that, except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
July 15, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER