

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH B. & ZETA L. O'NEILL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(x)~~ 22 of the :
Tax Law for the Year ~~(x) or Period (x)~~ 1972 :

State of New York
County of Albany

Bruce Batchelor , 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 12th day of May , 1977, ~~she~~ served the within
Notice of Decision by (certified) mail upon Joseph B. and
Zeta L. O'Neill ~~(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. Joseph B. O'Neill
521 Twist Run Road
Endwell, 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~XXXXX~~ 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

12th day of May , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

May 12, 1977

TELEPHONE: (518) ~~457-1723~~

Mr. & Mrs. Joseph B. O'Neill
521 Twist Run Road
Endwell, New York

Dear Mr. & Mrs. O'Neill:

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

Please take further notice that pursuant to
Section(§) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia
Supervisor of
Small Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
JOSEPH B. and ZETA L. O'NEILL
for Redetermination of Deficiency or for
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Year
1972.

DECISION

Petitioners, Joseph B. and Zeta L. O'Neill, residing at 521 Twist Run Road, Endwell, New York, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972. (File No. 2-29005314). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Governmental Civic Center, 44 Hawley Street, Binghamton, New York, on October 21, 1976 at 9:15 A.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (James A. Scott, Esq. of counsel).

ISSUE

Were petitioners, Joseph B. and Zeta L. O'Neill, residents of New York State for the entire year of 1972?

FINDINGS OF FACT

1. Petitioners, Joseph B. and Zeta L. O'Neill, filed a New York State personal income tax nonresident return for the period January 1, 1972 to June 30, 1972. They also filed a New York State personal income tax resident return for the period July 1, 1972 to December 31, 1972. The Income Tax Bureau held that petitioners, Joseph B. and Zeta L. O'Neill, were residents of New York State for the entire year of 1972 and recomputed their return on a full-year resident basis. A Notice of Deficiency dated May 19, 1975 was issued to petitioners, Joseph B. and Zeta L. O'Neill, for the year 1972 in the amount of \$294.73 personal income tax due, plus \$46.27 interest, for a sum of \$341.00.

2. Petitioners, Joseph B. and Zeta L. O'Neill, were residents of New Jersey prior to 1972. They were dissatisfied with their neighborhood and wished to relocate.

3. At the end of 1971, petitioner, Joseph B. O'Neill, accepted a position and began working in New York State in the beginning of 1972. He lived in motels while working in New York State during 1972. Petitioner, Joseph B. O'Neill, indicated that it was his intention to remain with his employer and to change his residence to New York State.

4. Petitioners, Joseph B. and Zeta L. O'Neill's home in New Jersey was put up for sale on February 5, 1972 and closed on June 19, 1972. Petitioners, Joseph B. and Zeta L. O'Neill, put a purchase offer in on a New York State home on February 25, 1972 and the closing date for said home was set for May 20, 1972. When the children's school year in New Jersey was completed on June 16, 1972, petitioners, Joseph B. and Zeta L. O'Neill, moved into their New York home.

CONCLUSIONS OF LAW

A. That by their stated intentions and actions, petitioners, Joseph B. and Zeta L. O'Neill, had effected a change of domicile from New Jersey to New York State by the beginning of the year 1972.

B. That since petitioners, Joseph B. and Zeta L. O'Neill, were domiciliaries of New York State during the year 1972, spent more than 30 days in New York State, had no permanent place of abode outside of New York State during all of said year and had a permanent place of abode inside of New York State during said year, therefore, they were resident individuals all of said year in accordance with the meaning and intent of section 605(a)(1) of the Tax Law.

C. That the petition of Joseph B. and Zeta L. O'Neill is denied and the Notice of Deficiency issued May 19, 1975 is sustained.

DATED: Albany, New York
May 12, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER