

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID and LINDA ROITMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(*)~~ 22 of the :
Tax Law for the Year ~~(s) or Period(s)~~ 1971. :

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 27th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon David & Linda Roitman

~~(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. David Roitman
1700 Blue Jay Lane
Cherry Hill, New Jersey 08003

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

27th day of July, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DAVID and LINDA ROITMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (22) of the :
Tax Law for the Year (1971) or Period (1971) :
~~(1971) or Period (1971)~~

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 27th day of July, 1977, she served the within
Notice of Decision by (certified) mail upon Sol L. Rabinowitz

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Sol L. Rabinowitz, CPA
Weinick, Sanders & Co.
One Astor Plaza
New York, New York 10036

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

27th day of July, 1977.

Marsina Donnini

Janet Mack



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

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

July 27, 1977

**Mr. & Mrs. David Roitman
1700 Blue Jay Lane
Cherry Hill, New Jersey 08003**

Dear Mr. & Mrs. Roitman:

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 **(b) 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 TAX COMMISSION

DECISION

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on January 24, 1977 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioners appeared by Sol L. Rabinowitz, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUE

Whether the military income received by the petitioner, David Roitman, during 1971, must be included in total income for New York State.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner, David Roitman, was a resident and a domiciliary of New York State on March 11, 1968 when he entered military service in the United States Army. He was discharged on June 11, 1971.

2. During the years the petitioner, David Roitman, was in the Army, he was stationed at various bases and lived in furnished apartments with his wife and children.

3. Upon being discharged from the Army, the petitioners, David and Linda Roitman, came back to New York State on or about June 19, 1971. They resided in New York State from the period June 19, 1971 to approximately the end of the year 1971.

4. The petitioners were domiciliaries and residents of New York State during the year 1971. The petitioners spent more than thirty days in New York State during the year 1971 and did not maintain a permanent place of abode outside New York State for the entire year 1971.

5. The military income received by the petitioner, David Roitman, is includable in total income for New York State income tax purposes.


6. The petition of David and Linda Roitman is denied and the Notice of Deficiency in the amount of \$206.69 issued March 26, 1973 is sustained together with such additional interest as may be legally owing.

DATED: Albany, New York
July 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER