

EDWARD H., JR. & RUTH A. GORENS

IN THE

vs.

MARYLAND TAX COURT

COMPTROLLER OF THE TREASURY

No. 10-IN-OO-1038

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MEMORANDUM OF GROUNDS FOR DECISION

This is an appeal by the Petitioners from the Comptroller of the Treasury's denial of a refund claim for individual income tax for 2006. At issue in this case is whether the Petitioners were residents of the State of Maryland for part of the year 2006.

It is the Petitioners' contention that they were residents of the State of Michigan until November of 2007 when they sold their house in Michigan and moved all their furnishings to the new home in Maryland. Mr. Gorens testified for the Petitioners. He testified that during 2006, his wife owned their home in Michigan, paid Homeowners' Association fees, real estate taxes and mortgage payments on that home throughout the year 2006. Mr. Gorens also testified that he moved into rental property in Maryland in 2006 due to a relocation for his work. Mr. Gorens went on to testify that though he'd moved to the State of Maryland, that his move to Maryland was work related and not permanent in nature. His testimony indicates that he intended his move to Maryland to be permanent upon the ultimate sale of his Michigan house and that his new job with Siemens proved satisfactory to him. Mr. Gorens went on to testify that he would return

to Michigan, where his wife remained, and that when he was not either in Maryland or Michigan, he was traveling forty percent of the time for Siemens.

The Comptroller's position that Petitioners were Maryland residents for part of the 2006 tax year was based on the declaration by the Petitioners that they were a "part-year resident" on their Michigan tax returns. It is the Comptroller's position that the Part-Year Resident Schedule file on the Petitioners' Michigan tax returns is strong evidence that the Petitioner, at least Mr. Gorens, was a Maryland resident from the time that he rented an apartment in Maryland during the month of August 2006 through the end of that calendar year.

Mr. Gorens testified that he believed his Part-Year Resident Schedule on his Michigan tax return was an appropriate method for reporting income taxes between more than one state. Mr. Gorens indicated that his accountant, Kreative Bookkeeping of California, felt that this was the appropriate procedure to follow.

While the filing of the part-year resident return for Michigan in 2006 may be evidence that Mr. Gorens was a resident of the State of Maryland for part of that year, this Court cannot ignore the facts; that the Gorens' drivers' licenses were issued by Michigan for that year, their automobiles were registered in the State of Michigan during this time period, and their voter registration was in Michigan. The Gorens continued to pay homeowners' fees, real estate taxes and mortgage payments on their house, which they still maintained in the State of Michigan for the year 2006. Lastly, the Court cannot ignore the testimony by Mr. Gorens that he believed that he was living in Maryland for work related purposes until such time as he determined his new job with Siemens proved satisfactory, and if it did, when he could successfully sell his Michigan home.

Therefore, this Court finds that Michigan was the jurisdiction that Mr. Gorens intended to reside during the 2006 tax year, and that he was not a resident of the State of Maryland during the year 2006. Therefore, this Court reverses the Comptroller's denial of a refund claim for the Petitioners' individual income taxes for the year 2006.