

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-84-(17)I
Income Tax
October 22, 1984

Charitable Contributions Made by
Former Residents of New York State

A question has been raised with respect to former New York State residents who wish to make contributions to New York State charities. The following, which is printed in its entirety, is an Opinion of Counsel dealing with this question.

OPINION OF COUNSEL

It has come to my attention that a number of out-of-state tax practitioners have advised former New York State residents not to make contributions to charities located in New York State lest they be deemed domiciliaries of New York State for purposes of the New York State personal income tax.

It is not now nor has it been the policy of this Department to hold a former resident to be a domiciliary of this state for income tax purposes because of contributions made to New York charities. Occupancy of residential property, business activities, voting registration, automobile registration, social club membership and the like are the indicia of domicile.

However, in order to clarify this matter and in order to encourage former residents to contribute to New York State charities, we would like to take this opportunity to reiterate that it is the policy of this Department that the making of contributions to a New York State charity will not be taken into account in determining domicile under New York's personal income tax. Accordingly, former New York residents will be able to make contributions to New York State charities secure in the knowledge that such a contribution will not affect the contributor's income tax status.

Please feel free to distribute copies of this letter to other similarly situated charities and to potential contributors. If I may be of further assistance, please do not hesitate to contact me.

s/John P. Dugan
Deputy Commissioner and Counsel