

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCES D. WESTFELT

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1963

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 10th day of May , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon Frances D. Westfelt (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Frances D. Westfelt
Villa Braggiotti
Porto Santo Stefano
Grossetto, Italy
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 Post Office Department within the State of New York.

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

10th day of May , 1972

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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State of New York
County of Albany

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c/o Coudert Brothers
200 Park Avenue
New York, New York 10017
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 Post Office Department within the State of New York.

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

10th day of May , 1972.

Paul Zimmerman

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 10, 1972

**Frances D. Westfelt
Villa Braggiotti
Porto Santo Stefano
Grossetto, Italy**

Dear Madam:

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

Please take further notice that pursuant to section(s)
690 of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **4 Months** after the date of this notice.

Any inquiries concerning the computation of tax due or
refund allowed in accordance with this decision or
concerning any other matter relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANCES D. WESTFELT : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the Year 1963. :

Frances D. Westfelt filed a petition under section 689 of the Tax Law for the redetermination of a deficiency in personal income tax due under Article 22 of the Tax Law for the year 1963.

In lieu of a hearing, petitioner agreed to submit the controversy upon the file of the Income Tax Bureau. Alexis C. Coudert and Emilio A. Dominianni of Coudert Brothers represented petitioner. Such file has been duly examined and considered.

ISSUE

The issue in this case is whether petitioner became a domiciliary of New York in 1957 and whether she changed her domicile to Italy in 1963.

FINDINGS OF FACT

1. Petitioner was born and raised in Chicago, Illinois. She still receives her sole income from a trust in a Chicago bank. She married and moved to Virginia with her husband and raised a daughter there. She was divorced but continued to live in Virginia with her daughter.

2. In 1957, petitioner moved to New York City and rented an apartment. From 1958 through 1962 she filed New York resident returns since she was in any event a resident under section 605(a)(2) of the Tax Law.

3. In May, 1963, petitioner's lease ran out, she disposed of her household effects, moved to Europe and spent some time in England, Switzerland and France. In May, 1964 she filed a nonresident tax return showing her residence to be Grosseto, Italy, but admitting residence in New York up to June 1, 1963. She has retained her American citizenship. One reason for her moving was to be able to live more comfortably on her fixed income.

4. Petitioner states by affidavit that the reason for her move to New York was to be close to her daughter who was attending a private school in southern Connecticut. She states further that it had been her intention that upon the daughter's graduation she would go to England where some of her family lived. The daughter graduated in 1961 but was killed in an accident shortly after graduation and petitioner for that reason postponed all of her plans.

5. Since 1963, petitioner has maintained no accounts, club memberships or charitable or religious affiliations with New York.

6. The deficiency is dated February 8, 1965, and is in the amount of \$800.00 plus interest of \$39.15 for a total of \$839.15.

CONCLUSIONS OF LAW

The petitioner did not retain her domicile in Virginia at the time she moved to New York. The record is devoid of any evidence that petitioner retained any property interests or social interests in Virginia. Her voting record, if any, is not indicated.

Petitioner has not shown that she changed her domicile to Italy before the end of 1963. By her own statement she moved first to England, Switzerland, and France without any claim of intent to be domiciled in any of those places, and there is no evidence as to when

she first arrived in Italy where she claims she did intend to live. The affidavits and reports available are devoid of significant detail which give evidence of any objective manifestation of her intent to change her domicile at that time.

DECISION

The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due pursuant to section 684 of the Tax Law.

DATED: Albany, New York

May 10, 1972

STATE TAX COMMISSION

COMMISSIONER

Bruce Manley

COMMISSIONER

William Koehn

COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
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STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 10, 1972

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Porto Santo Stefano
Grossetto, Italy

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Nigel G. Wright
Hearing Officer

cc Petitioner's Representative
Law Bureau

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DATED: Albany, New York

May 10, 1972

STATE TAX COMMISSION

COMMISSIONER

George Maxwell

COMMISSIONER

Milton Kravitz

COMMISSIONER

MEMORANDUM

TO: Mr. Louis Etlinger, Chief, Review Unit
Att: Floyd Worden
Income Tax Bureau
Room 104, Building #8

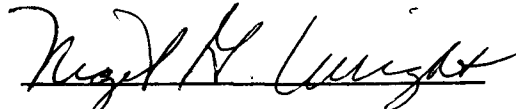
DATE: 8/21/72

FROM: Hearing Unit
Room 214A, Building #9

RE: Frances D/ Westfelt
Villa Braggiotti
Porto Santo Stefano
Grossetto, Italy

SOCIAL SECURITY NO.

Please advise as to the last known address for the above named taxpayer.


Hearing Officer

Taxpayer's last known address is:

no record of returns filed 1969, 1970 or 1971

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227

Respect to parents



Frances D. Westerfelt
Villaggio Braggiotti
~~Porto Santo Stefano~~
Grossetto, Italy

unknown here

Highland Park, N.J.