

TAB

N6 W

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

EUGENE O. and ELIZABETH T. BRIMM :

DECISION

for a Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Year 1964. :

Eugene O. and Elizabeth T. Brim, 11416 Lakeshore Drive, Carmel, Indiana 46032, filed a petition under section 689 of the Tax Law for the redetermination of a deficiency issued on September 25, 1967 against Mr. Brimm in the amount of \$167.48 plus interest of \$24.06 for a total of \$192.64 and against Mrs. Brimm in the amount of \$37.99 plus interest of \$5.57 for a total of \$43.56 both for personal income taxes under Article 22 of the Tax Law for the year 1964.

In lieu of a hearing, petitioners submit their case to the Commission on the file of the Income Tax Bureau. Said file has been duly examined and considered.

ISSUE

The issue in this case is whether petitioners changed their domicile from New York to Switzerland in 1964.

FINDINGS OF FACT

1. Prior to 1964, petitioners had lived at 41 Snughaven Court, Tonawanda, New York.

2. Mr. Brimm is a chemist. He had been employed by the Tonawanda Laboratories, Linde Division, Union Carbide Corp., from 1940 to September 9, 1963 when he was dismissed. Mr. Brimm then sought other employment at meetings of professional associations and executive talent agencies. He was hired as of October 1, 1963 by Union Carbide International Company to fill a vacancy in their Technical Relations Department in Europe. He stayed in the United States for training from October 1, 1963 until January 10, 1964, when he left for Europe. Mr. Brimm received his salary in Swiss francs which amounted to about \$20,000.00 a year.

3. Mr. Brimm arrived in Switzerland on January 12, 1964, and took up residence at 40 Rue de Rhone, Geneva. His wife and daughter followed him on March 7, 1964. Their house in Tonawanda had been sold in January, 1964, and his wife and children had lived elsewhere until March. About February 1, 1964, a substantial part of the furniture and personal effects were shipped to Switzerland. Union Carbide paid for this. Other possessions were stored in a warehouse

in Niagara Falls, New York. Since March 1, 1964, petitioners have rented a residence at the address 29, ch. des Palettes, Grand Lancy, Geneva, on a three-year lease. Their daughter has attended the Ecole International in Geneva.

4. Mrs. Brimm had a custodian account at a New York City bank which she retained when she went to Switzerland. The Brimms filed income tax returns in Geneva.

5. At some time in 1970 or 1971, petitioners moved back to the United States to Carmel, Indiana.

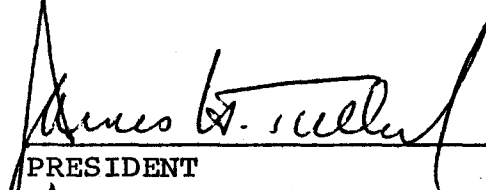
CONCLUSIONS OF LAW

Petitioners have shown that they intended to and did in fact abandon their New York domicile in 1964, and that they acquired a new domicile elsewhere.

The taxpayers' petition is sustained. It is determined that there are no deficiencies against the taxpayer in income tax for 1964.

DATED: Albany, New York
December 17, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER