

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WAYNE A. AND SHARON L. ALGER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article ~~(g)~~ 22 of the  
Tax Law for the Year ~~(XXXXXX Period(s))~~ 1973.

State of New York  
County of Albany

Carmen Mottolese, 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 November, 1976, she served the within Notice of Decision by (certified) mail upon Wayne A. and Sharon L. Alger ~~(XXXXXXXXXXXX)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Wayne A. Alger  
9214 Idaho Place  
Williams Air Force Base  
Arizona 85224  
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 ~~(XXXXXXXXXXXX)~~ ~~(XXXXXXXXXXXX)~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(XXXXXXXXXXXX)~~ ~~(XXXXXXXXXXXX)~~ petitioner.

Sworn to before me this  
10th day of November, 1976.

Carmen Mottolese

Janet Back



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227  
November 10, 1976

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Wayne A. Alger  
9214 Idaho Place  
Williams Air Force Base  
Arizona 85224

Dear Mr. & Mrs. Alger:

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

Please take further notice that pursuant to  
Section ~~690~~ **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from the date of this notice.

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

Very truly yours,  
*Frank J. Puccia*  
Frank J. Puccia  
Supervisor of Small  
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
WAYNE A. and SHARON L. ALGER  
for Redetermination of a Deficiency or  
for Refund of Personal Income Taxes  
under Article 22 of the Tax Law for the  
Year 1973.

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DECISION

Petitioners, Wayne A. and Sharon L. Alger, residing at 9214 Idaho Place, Williams Air Force Base, Arizona 85224, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1973. (File No. 3-49105503). On July 22, 1976, petitioners, Wayne A. and Sharon L. Alger, advised the State Tax Commission in writing that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

ISSUE

Whether or not petitioners, Wayne A. and Sharon L. Alger, were residents of New York in the year 1973 and therefore subject to personal income tax on all income from whatever source earned during said year.

FINDINGS OF FACT

1. Petitioners, Wayne A. and Sharon L. Alger, filed a joint nonresident personal income tax return for the year 1973. Petitioners reported the husband's nonmilitary wages earned in New York as their only New York income. Other wages earned outside of New York and the husband's military income for the entire year were not reported as New York income. The Income Tax Bureau held that petitioners, Wayne A. and Sharon L. Alger, were residents of New York and all income was subject to personal income tax. A Notice of Deficiency was issued November 25, 1974 in the amount of \$191.26 additional tax plus \$5.53 interest for a total of \$196.76. From this amount, a \$71.00 overpayment shown on the return was subtracted leaving a balance due of \$125.79.

2. Petitioner, Wayne A. Alger, was a domiciliary of New York when he reenlisted in the United States Air Force in Florida and remained there until October, 1971, when he was reassigned to Lackland Air Force Base in Texas. In the summer of 1972, petitioner, Wayne A. Alger, was assigned to duties in New York by the United States Air Force. He remained in New York until October, 1973. Since this time, petitioner, Wayne A. Alger, has been assigned to military duty in Thailand, Kansas and Arizona.

3. Petitioners, Wayne A. and Sharon L. Alger, contend that, while living in Texas during 1972, they elected to change their domicile from New York to Texas and were still domiciliaries of Texas during all of 1973. In support of this contention, petitioners, Wayne A. and Sharon L. Alger, stated that they registered to vote in Texas and also registered their automobile in Texas.

CONCLUSIONS OF LAW

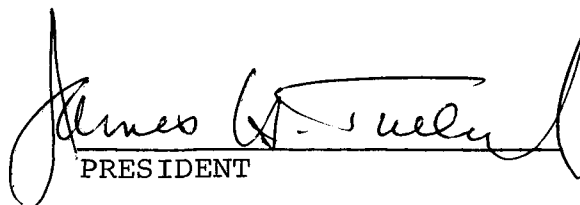
A. That petitioners, Wayne A. and Sharon L. Alger, were domiciled in New York in 1973 and that they at no time effected a change of domicile to Texas.

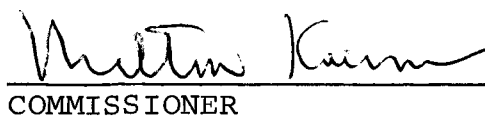
B. That since petitioners, Wayne A. and Sharon L. Alger, were domiciliaries of New York in 1973 and since they did not maintain a permanent place of abode outside of New York during said year, they were therefore subject to New York State personal income tax as resident individuals on all their income including income earned outside of New York State in accordance with the meaning and intent of section 605(a)(1) of the Tax Law.

C. That the petition of Wayne A. and Sharon L. Alger is denied and the Notice of Deficiency issued November 25, 1974, is sustained.

DATED: Albany, New York  
November 10, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER