

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD A. and MARGARET B. RICHARDS  
For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income  
Taxes under Article(§) 22 of the  
Tax Law for the Year(s) ~~xxx Period(s)~~  
1967 and 1968.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that  
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 14th day of December, 1976, ~~she~~ he served the within  
Notice of Decision by (certified) mail upon Richard A. and  
Margaret B. Richards ~~representative of~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. & Mrs. Richard A. Richards  
216 McConnell Avenue  
Bayport, New York 11705

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 ~~(representative~~  
~~of the)~~ 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

14th day of December, 1976

Bruce Batchelor

Justus



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

December 14, 1976

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

Mr. & Mrs. Richard A. Richards  
216 McConnell Avenue  
Bayport, New York 11705

Dear Mr. & Mrs. Richards:

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

Please take further notice that pursuant to  
Section(**x**) **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**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~Revised and Resubmitted~~

Taxing Bureau's Representative:

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
RICHARD A. AND MARGARET B. RICHARDS	:	
For Redetermination of a Deficiency or	:	DECISION
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1967 and 1968.	:	

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Petitioners, Richard A. and Margaret B. Richards, residing at 216 McConnell Avenue, Bayport, New York 11705, have filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1967 and 1968 (File No. 8-19306054).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on June 10, 1976 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. Petitioner, Richard A. Richards, appeared pro se and for his wife. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq., of counsel).

ISSUE

Whether the petitioners, Richard A. and Margaret B. Richards, changed their domicile from New York State to the State of Pennsylvania during the period of May, 1967 to August, 1968.

FINDINGS OF FACT

1. Petitioners, Richard A. and Margaret B. Richards, timely filed New York State resident returns, It-208 for the year 1967 and IT-201 for the year 1968. Subsequently an amended IT-201 New York State resident return for the year 1967 was filed by petitioner, Margaret B. Richards, indicating that she was a resident of New York State for the entire year. The petitioner, Richard A. Richards, filed an amended New York State nonresident return IT-203 for the period May 1, 1967 to December 31, 1967. On the New York State IT-201 resident returned filed by the petitioners for the tax year 1968, a subtraction of \$10,203.02 was taken relating to income earned by the petitioner, Richard A. Richards, while working in Pennsylvania for the period January 1, 1968 to August 31, 1968.

2. On April 12, 1971, the Income Tax Bureau issued a Statement of Audit Changes stating that petitioner, Richard A. Richards, is considered a resident for the entire year 1968. Therefore, all income earned is taxable to New York State. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$749.15.

3. The petitioner, Margaret B. Richards, stated that she was a resident and domiciliary of New York State for the years 1967 and 1968.

4. The petitioners, New York State residents, maintained a home in Bayport, New York. On May 1, 1967, the petitioner, Richard A. Richards, began working for the Beryllium Corporation and was assigned to the Reading, Pennsylvania office.

5. In July 1967, the petitioners entered into an agreement to purchase a home in Reading, Pennsylvania, which purchase was closed in October of 1967.

6. The petitioner, Richard A. Richards, in or about November, 1967, was subsequently transferred to Hazelton, Pennsylvania by his firm on a temporary basis. However, on or about June, 1968, this became a permanent transfer. The petitioner, Richard A. Richards, in August of 1968, resigned his position, sold his Pennsylvania residence and returned to New York.

7. During the years in question, the petitioner's wife and family continued to maintain and reside in their New York residence.

#### CONCLUSIONS OF LAW

A. That the petitioners did not change their domicile from New York to Reading, Pennsylvania for or during any part of the years 1967 and 1968.

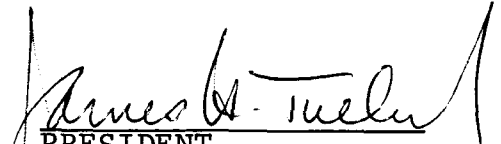
B. That the petitioners maintained a permanent place of abode in New York and spent more than thirty days in New York for the years 1967 and 1968.

C. That the petitioners, Richard A. and Margaret B. Richards, are held to be New York State residents for the years 1967 and 1968,, within the meaning and intent of section 605, of Article 22 of the Tax Law.

D. That the petition of Richard A. and Margaret B. Richards is denied and the Notice of Deficiency dated April 12, 1971 is sustained.

DATED: Albany, New York  
December 14, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER