

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DOUGLAS A. SWITZER and
MARGARET O. SWITZER, his wife

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(8)~~ 22 of the
Tax Law for the Year ~~(XXXXXX)~~ 1969.:

AFFIDAVIT OF MAILING

State of New York
County of Albany

Catherine Steele, 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 26th day of August, 19 76, she served the within Notice of Decision by ~~(certified)~~ mail upon Douglas A. Switzer and Margaret O. Switzer ~~(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. Douglas A. Switzer
c/o Bank of America
Tromol Pos 195 DKT
Jakarta, Indonesia
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)~~ ~~(of the)~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(representative of the)~~ ~~(of the)~~ petitioner.

Sworn to before me this
26th day of August, 19 76

Catherine Steele

Janet Mack



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

August 26, 1976

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

Mr. & Mrs. Douglas A. Switzer
c/o Bank of America
Tromol Pos 195 DKT
Jakarta, Indonesia

Dear Mr. & Mrs. Switzer:

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

Please take further notice that pursuant to
Section ~~705~~ **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: Petitioner's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
DOUGLAS A. SWITZER and : DECISION
MARGARET O. SWITZER, his wife :
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Year :
1969. :

Petitioners, Douglas A. Switzer and Margaret O. Switzer, c/o Bank of America, Tromol Pos 195 DKT, Jakarta, Indonesia, filed a petition for redetermination of a deficiency pursuant to Article 22 of the Tax Law for the year 1969. (File No. 9-49105250). On April 2, 1976, petitioner advised the State Tax Commission in writing he desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the record contained in the file.

ISSUE

Are the petitioners resident individuals within the meaning of section 605 of the Tax Law?

FINDINGS OF FACT

1. Petitioners, Douglas A. Switzer and Margaret O. Switzer, filed a joint New York State income tax resident return for 1969 which reflected total income of \$987.78.

2. The Income Tax Bureau issued a Notice of Deficiency for the year 1969 in the amount of \$167.63. The deficiency was determined on the basis that the petitioners are resident individuals for 1969.

3. Petitioner, Douglas A. Switzer, a New York resident, resided in New York until January 23, 1969, at which time he moved to Guam.

4. At the time of her induction, in 1967, into the Armed Forces of the United States, petitioner, Margaret O. Switzer, a Navy nurse, was a domiciliary of New York. She was stationed in North Carolina until December of 1968, at which time she was assigned to the U. S. Territory of Guam.

5. Petitioners, Douglas A. Switzer and Margaret O. Switzer, were married on January 18, 1969, and left for Guam on January 23, 1969, where they maintained a residence off base from the beginning of the year.

6. Petitioners, Douglas A. Switzer and Margaret O. Switzer, did not spend more than 30 days in New York State during 1969.

CONCLUSIONS OF LAW

A. Petitioner, Douglas A. Switzer, is a domiciliary of New York State for the year 1969. His total reportable Federal income of \$987.78 is therefore deemed to be his total New York income.

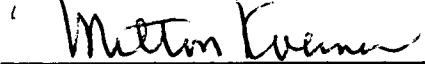
B. Petitioner, Margaret O. Switzer, a domiciliary of New York State, did not maintain a permanent place of abode in this State. She did maintain a permanent place of abode in Guam for the entire year and she did not spend more than thirty days in this State. Petitioner, Margaret O. Switzer, is a nonresident for income tax purposes within the meaning of section 605 of the Tax Law since she met all three conditions set forth in such statute.

C. The petition of Douglas A. Switzer and Margaret O. Switzer is sustained to the extent that petitioner, Margaret O. Switzer's income is not subject to the personal income tax imposed by Article 22. The personal income tax liability for Douglas A. Switzer must be recomputed on the basis of his total New York income of \$987.78.

DATED: Albany, New York
August 26, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER