

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JACOB LEITER and NECHAMA LEITER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year ~~(xxxxxx Period(s))~~ 1972.

State of New York
County of Albany

Marsina Donnini, 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 16th day of August, 1977, she served the within Notice of Decision by ~~(certified)~~ mail upon Jacob & Nechama Leiter

~~(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. Jacob Leiter
22 Pinsker Street
Jerusalem, Israel
P.O. Box 4218
Jerusalem, Israel

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
16th day of August, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JACOB LEITER and NECHAMA LEITER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~(s)~~ ~~or Period(s)~~ 1972. :

State of New York
County of Albany

Marsina Donnini, 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 16th day of August, 1977, she served the within Notice of Decision by (certified) mail upon Jonathan M. Harris

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Jonathan M. Harris, Esq. Greenbaum, Wolff & Ernst 437 Madison Avenue New York, New York 10022

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
16th day of August, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

August 16, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. & Mrs. Jacob Leiter
22 Pinsker Street
Jerusalem, Israel
P O Box 4218
Jerusalem, Israel

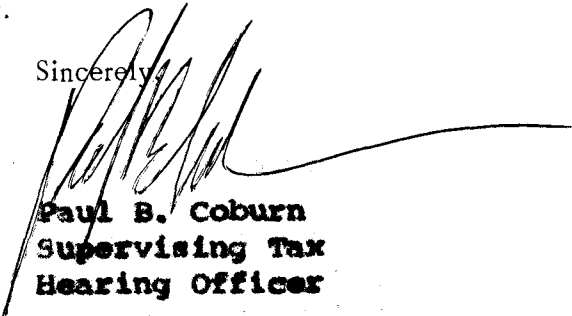
Dear Mr. & Mrs. Leiter:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~(3)~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,



Paul B. Coburn
Supervising Tax
Hearing Officer

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
 of :
 JACOB LEITER and NECHAMA LEITER : DECISION
for Redetermination of a Deficiency or :
for Refund of Personal Income Tax under :
Article 22 of the Tax Law for the :
Year 1972. :
:

The petitioners, Jacob Leitner and Nechama Leitner, residing at 22 Pinsker Street, Jerusalem, Israel, P. O. Box 4218, Jerusalem, Israel, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972 (File No. 12203).

A formal hearing was held before Solomon Sies, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 19, 1977 at 9:15 A.M.

Petitioners appeared by Greenbaum, Wolff & Ernest, Esqs. (Jonathan M. Harris, Esq. of counsel). The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether the petitioners, Jacob Leiter and Nechama Leiter, effected a change of domicile from the State of New York to Israel on September 1, 1972.

FINDINGS OF FACT

- 2 -

1. Petitioners, Jacob Leiter and Nechama Leiter, filed a New York State Combined Income Tax Return Form IT-208 (for resident married persons filing a joint Federal return who elect to file separate New York State returns on a single form) for the period January 1, 1972 to August 31, 1972. On May 19, 1975, the Income Tax Bureau issued a Statement of Audit Changes imposing additional personal income tax against the petitioners on the entire income received by them in 1972, on the ground that they remained New York residents for the entire year of 1972. Additional personal income tax was imposed against the husband for \$425.26 and against the wife for \$8,894.21 for a total of \$9,319.47, plus penalty under section 685(a)(1) amounting to \$931.95, and interest of \$1,463.06, for a grand total of \$11,714.48. Accordingly, a Notice of Deficiency was issued therefor.

2. Prior to August 31, 1972, the petitioners were domiciliaries of the State of New York. For a number of years prior to 1972, the petitioners were contemplating emigrating from the United States to Israel. They reached a decision to emigrate in the latter part of 1971 or the early part of 1972. Their oldest daughter had already been living in Israel for 1½ years. On January 28, 1972, petitioners joined the Association of Americans and Canadians for Aliyah, an organization of Americans who desire to live permanently in Israel. On the same date, they applied for immigrant aid from the Israel Aliyah Center.

3. In February of 1972, the petitioners applied for accommodations as immigrants at Tivon Hostel, an immigrant absorption center in Israel, beginning in August of 1972. On June 8, 1972, they executed a loan agreement and promissory note to the Israel Aliyah Center in the amount of \$2,415.00 to cover transportation and shipping expenses for their family and household possessions one way to Israel.

4. During July of 1972, petitioners were notified that they were eligible for immigrants' rates for shipment of personal effects and household goods to Israel. Petitioner, Jacob Leiter, obtained a position as principal of Molly Goodman High School in Kfar Silver, Ashkelon, Israel, prior to his departure from the U.S. for a period of one year, as is customary in Israel. In July of 1972, the petitioners underwent the required medical examination to determine fitness for Aliyah.

5. The petitioners arrived in Israel in August of 1972. Upon their arrival in Israel, petitioners received an Israeli identification card and number, which is only assigned to native-born Israelis and immigrants.

6. The petitioners sold their home in Belle Harbor, New York, on August 31, 1972. All of their household items and appliances were given away, sold or shipped to Israel for use there. Upon their arrival in Israel, the petitioners purchased new furniture and appliances. Prior to the end of 1972, petitioners applied for the purchase of an apartment in Ashkelon. Only immigrant families are

eligible to purchase this type of apartment. They paid taxes on income earned in Israel from August 31, 1972 to December 31, 1972.

7. The petitioners indicated an intent to remain permanently in Israel when they applied for a visa for immigration to Israel in 1972. A statement from the Ministry of Interior was submitted to corroborate the same. The petitioners are entitled to vote in the Israeli elections. They did not vote by absentee ballot for a U.S. presidential candidate in 1972.

8. Mr. Leiter has retired from his former position as principal with the New York City Board of Education. Mr. Leiter has been inducted into the Israeli Defense Forces.

9. The petitioners did not maintain any place of abode in the U.S. after August 31, 1972.

CONCLUSIONS OF LAW

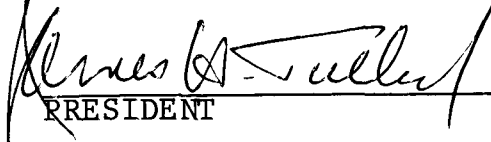
A. That the petitioners effected a change of domicile from the State of New York to Israel on September 1, 1972.

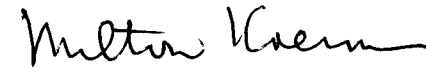
B. That the petitioners, Jacob Leiter and Nechama Leiter, were not residents of the State of New York for income tax purposes on and after September 1, 1972, within the intent and meaning of section 605 of the Tax Law and 20 NYCRR 102.2.

C. That the petition is granted to the extent that the petitioners are determined to be residents of the State of New York from January 1, 1972 to August 31, 1972. and nonresidents from September 1, 1972 to December 31, 1972; that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued May 19, 1975, and that except as so granted the petition of Jacob Leiter and Nechama Leiter is in all other respects denied.

DATED: Albany, New York
August 16, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER