

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD and BEVERLY WEISS

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) ~~on Period(s)~~ :
1972 and 1973.

State of New York
County of Albany

Bruce Batchelor , 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 April , 1977, ~~she~~ served the within
Notice of Decision by (certified) mail upon Bernard & Beverly Weiss

(~~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. Bernard Weiss
2270 Ocean Avenue
Brooklyn, New York

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~~) petitioner.

Sworn to before me this

26th day of April , 1977.

Bruce Batchelor

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

April 26, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. Bernard Weiss
2270 Ocean Avenue
Brooklyn, New York

Dear Mr. & Mrs. Weiss:

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: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 15, 1976, at 2:45 P.M. Petitioner, Bernard Weiss, appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq., of counsel).

ISSUE

Did the petitioners change their domicile from New York to California during the year 1973?

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. Petitioners, Bernard and Beverly Weiss, did not surrender their New York apartment.
2. Petitioners left their furniture and household effects in New York.

3. While petitioners, Bernard and Beverly Weiss, resided in California for three months during 1973, their children remained in New York.

4. Petitioners did not purchase a home in California but rather rented a furnished apartment on a month-to-month basis.

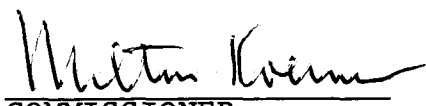
5. Petitioners, Bernard and Beverly Weiss, did not sustain the burden of proof necessary to establish that they actually changed their domicile from New York to California. That the petitioners were domiciliaries of New York State within the meaning and intent of section 605(a) of the Tax Law and the implementing Regulations 20 NYCRR 102.2, during the entire year of 1973.

6. That the petition of Bernard and Beverly Weiss is denied and the Notice of Deficiency issued December 22, 1975 is sustained.

DATED: Albany, New York
April 26, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER