

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GARY E. and MELANIE B. YUDELL

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) ~~xxx Period(x)~~
1968, 1969 and 1970.

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 17th day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Gary E. & Melanie B.
Yudell ~~(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. Gary E. Yudell
42 Edison Lane
Willingboro, New Jersey 08046

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)~~
~~xxx 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

17th day of June, 1977.

Marsina Donnini

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

June 17, 1977

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

Mr. & Mrs. Gary E. Yudell
42 Edison Lane
Willingboro, New Jersey 08046

Dear Mr. & Mrs. Yudell:

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

Please take further notice that pursuant to
Section(§) **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: ~~Beckman & Associates~~

Taxing Bureau's Representative:

STATE TAX COMMISSION

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on August 20, 1976 at 10:45 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Melanie B. Yudell. The Income Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq. of counsel).

Whether petitioner Gary E. Yudell was a resident of New York State for the years 1968, 1969 and 1970 and whether petitioner Melanie B. Yudell was a resident of New York State for the year 1970.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioner Gary E. Yudell resided with his parents at 1330 East 8th Street, Brooklyn, New York until April, 1966. At that time, he was a graduate student at Florida State University and maintained an apartment in the State of Florida.

2. In July of 1967, petitioner Gary E. Yudell was inducted into military service while in the State of Florida and was sent to Texas for training. He was subsequently stationed at other military installations outside New York State and he resided in military quarters from January 1, 1968 through June 14, 1968, from March 15, 1969 through July 14, 1969 and from October 19, 1970 through September 20, 1971. Petitioner was married on April 12, 1970 and his wife, petitioner Melanie B. Yudell maintained a residence outside New York State from October 19, 1970 through September 20, 1971 while her husband was serving in the United States Air Force in Viet Nam.

3. Petitioner Gary E. Yudell used an absentee-ballot to vote in New York State during the years in question.

4. During the years 1968, 1969 and 1970, petitioner Gary E. Yudell was domiciled in New York State within the meaning and intent of 20 NYCRR 102.2(d) and petitioner Melanie B. Yudell was domiciled in New York State during the year 1970 within the meaning and intent of 20 NYCRR 102.2(d). In addition, petitioner

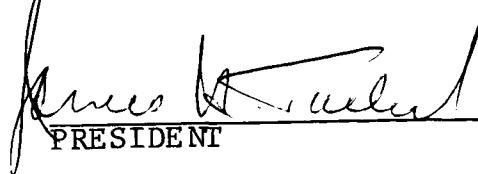
Gary E. Yudell did not satisfy all three conditions set forth in 20 NYCRR 102.2(b) for the years 1968, 1969 and 1970.

Therefore, petitioner Gary E. Yudell was a resident of New York State for the years 1968, 1969 and 1970 and petitioner Melanie B. Yudell was a resident of New York State for the year 1970, within the meaning and intent of section 605(a) of the Tax Law.

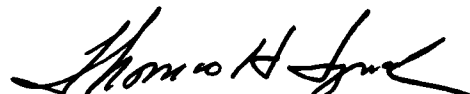
5. The petition of Gary E. and Melanie B. Yudell is denied and the Notice of Deficiency issued March 31, 1975 is sustained.

DATED: Albany, New York
June 17, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER