

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY ZIONTS and HARRIETTE ZIONTS

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))~~ 1973. :

State of New York  
County of Albany

John Huhn , being duly sworn, deposes and says that  
~~x~~he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 3rd day of November , 1978, ~~x~~he served the within  
Notice of Decision by (certified) mail upon Stanley Zionts and  
Harriette Zionts ~~(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. Stanley Zionts  
104 Crestwood Lane  
Williamsville, New York 14221

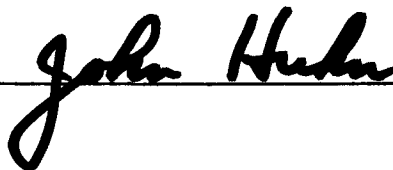
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~  
~~xxxxhe~~ 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

3rd day of November , 1978.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY ZIONTS and HARRIETTE ZIONTS

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 ~~(x) 1973~~ 1973. :

State of New York  
County of Albany

John Huhn , 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 3rd day of November , 1978, ~~she~~ served the within  
Notice of Decision by (certified) mail upon Donald J. Egan

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Donald J. Egan, Esq.  
Magavern, Magavern, Lowe, Beilewech & Dopkins  
20 Cathedral Park  
Buffalo, New York 14202

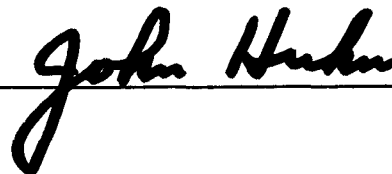
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

3rd day of November , 1978.

  
\_\_\_\_\_

  
\_\_\_\_\_



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

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

**November 3, 1978**

**Mr. & Mrs. Stanley Zions**  
**104 Crestwood Lane**  
**Williamsville, New York 14221**


**Dear Mr. & Mrs. Zions:**

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 **(a) 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,

  
**Michael Alexander**  
**Supervising Tax**  
**Hearing Officer**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
STANLEY ZIONTS and HARRIETTE ZIONTS : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Tax under :  
Article 22 of the Tax Law for the Year :  
1973. :  
:

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Petitioners, Stanley Zionts and Harriette Zionts, 104 Crestwood Lane, Williamsville, New York 14221, 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 1973 (File No. 17041).

A formal hearing was held before Alan R. Golkin, Esq., Hearing Officer, at the offices of the State Tax Commission, State Office Building, 65 Court Street, Buffalo, New York, on July 12, 1977 at 10:45 A.M. Petitioners appeared by Donald J. Egan, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (James J. Morris, Esq., of counsel).

#### ISSUE

Whether petitioners abandoned their New York domicile or whether during 1973 they remained New York domiciliaries for income tax purposes.

#### FINDINGS OF FACT

1. Petitioners, Stanley Zionts and Harriette Zionts, filed change of residence returns for 1973 on forms IT-208 and IT-209, claiming

a refund of \$1,369.35. The returns indicated that petitioners were residents of New York State from January 1, 1973 through June 20, 1973 and that they were nonresidents for the balance of the year.

2. On September 27, 1976, the Income Tax Bureau issued a Notice of Deficiency against petitioners, Stanley Zionts and Harriette Zionts, on the grounds that they were residents of New York State for all of 1973. The deficiency asserted tax and interest of \$8,657.34, less the refund of \$1,369.35 claimed on petitioners' returns.

3. Petitioners resided in New York State and were domiciled in New York State until about June 20, 1973, at which time they moved to Florida with the claimed intention of establishing a new domicile in that state. This was done for the health of their three asthmatic children and in order to attend to family business ventures.

4. Petitioners sold their home at 116 Ranch Trail, Williamsville, New York, under contract dated May 25, 1973 (closing of title took place in August of 1973), closed all their bank accounts in New York State during June or July of 1973, cancelled a safe deposit box and sold their automobiles and other personal property.

5. Prior to June 20, 1973, petitioner Stanley Zionts was employed as a full professor by the State University of New York at Buffalo. He took a leave of absence from this position, thereby retaining his tenure rights. The University stored some of petitioner's materials and books for the period of his absence.

6. Petitioner Stanley Zionts resigned from the Board of Directors of the Audubon Development Corporation (part of the New York Urban Development Corporation) and from the Consumer's Advisory Counsel to the New York State Insurance Department.

7. Petitioners rented an apartment in Florida in the same building in which petitioner Harriette Zionts' parents resided. Petitioners resided at said apartment for a period of about three weeks, after which time petitioners moved to Brussels, Belgium, on or about July 5, 1973. Petitioners resided there for about two years.

8. While in Florida, each petitioner obtained a Florida driver's license, executed a will in Florida reciting themselves to be residents of Florida and executed and filed a "Declaration of Domicile" (Florida form document). Petitioners did not vote in Florida, nor did they register cars there. They did not purchase a new permanent residence (such as a new home) to take the place and stead of the dwelling at 116 Ranch Trail, Williamsville, New York.

9. During the period petitioners resided in Belgium, petitioner Stanley Zionts was employed as a professor at the European Institute for Advanced Studies and Management in Brussels. Stanley Zionts knew of the aforementioned position prior to leaving New York State on or about June 20, 1973.

10. Petitioner Stanley Zionts was contacted by his Dean at the State University of New York at Buffalo, regarding his return to his employment at the University in the Spring of 1975, since the

"leave of absence" was expiring; however, there existed the possibility of extending such leave.

11. Petitioners returned to the United States in July of 1975, staying temporarily in Florida for about three weeks and then continued on to New York State. Petitioner Stanley Zions returned to his position at the State University of New York at Buffalo on or about August 11, 1975, as a full professor in the same status and under the same conditions as existed prior to June 20, 1973.

12. Petitioners relocated in New York State in 1975, despite a lower salary than might have been possible elsewhere and regardless of the effects of the northern climate on their asthmatic children. Further, they did so without concern for being closely involved in the day-to-day affairs of the family business ventures in Florida.

13. Petitioner Stanley Zions wrote a letter dated May 19, 1975 to the Department of Taxation and Finance, stating that he intended to relinquish his New York domicile in June of 1973 "and changed it to Belgium." The letter further stated that petitioners' stay was indefinite and that their corresponding visa for Belgium was free of any time limit.

14. Petitioners owned real property in Florida and paid taxes on said property in 1973.

CONCLUSIONS OF LAW

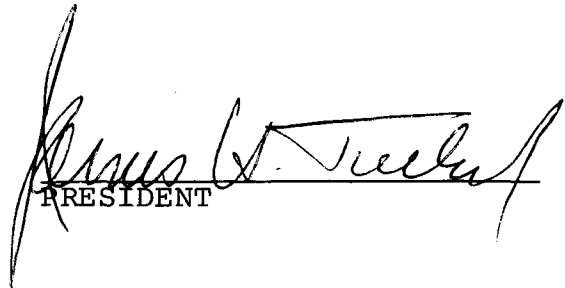
A. That petitioners, Stanley Zionts and Harriette Zionts, were domiciliaries of New York State prior to June 20, 1973.

B. That a domicile once established continues until it is clearly shown that a new domicile has been acquired. Petitioners have failed to sustain the burden of proof required to show that they established a new domicile outside New York State, within the meaning and intent of 20 NYCRR 102.2(d); therefore, petitioners were domiciled in New York State during all of 1973.

C. That the petition of Stanley Zionts and Harriette Zionts is in all respects denied and the Notice of Deficiency issued on September 27, 1976 is sustained.

DATED: Albany, New York  
November 3, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER