

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Stephen & Fay Missailidis :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Personal Income Tax :
under Article 22 of the Tax Law :
for the Year 1967. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of January, 1980, he served the within notice of Decision by certified mail upon Stephen & Fay Missailidis, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

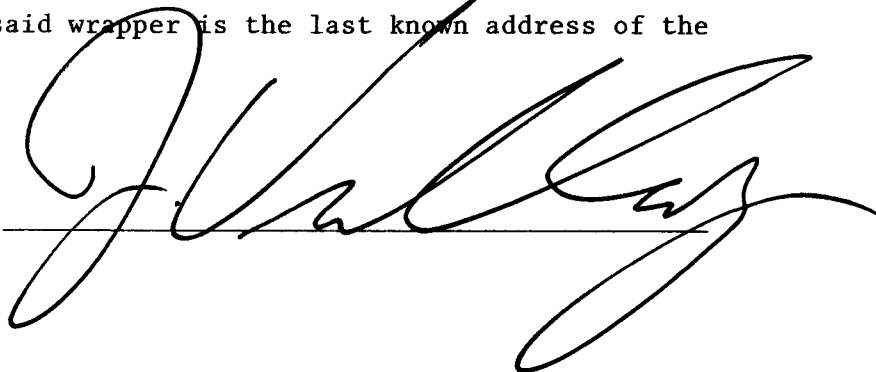
Stephen & Fay Missailidis
36 Glen Terrace
Scotia, NY 12302

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
11th day of January, 1980.

Joanne Knapp



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Stephen & Fay Missailidis :
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Year 1967. :

AFFIDAVIT OF MAILING

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of January, 1980, he served the within notice of Decision by certified mail upon Philip J. Coundouris the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Philip J. Coundouris
46-01 48th Ave.
Woodside, NY 11377

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
11th day of January, 1980.

Joanne Knapp

J. Vredenburg

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

January 11, 1980

Stephen & Fay Missailidis
36 Glen Terrace
Scotia, NY 12302

Dear Mr. & Mrs. Missailidis:

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(s) 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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Philip J. Coundouris
46-01 48th Ave.
Woodside, NY 11377
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
STEPHEN MISSAILIDIS and FAY MISSAILIDIS	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1967.	:	

Petitioners, Stephen Missailidis and Fay Missailidis, 153 Manville Road, Pleasantville, New York 10570, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for 1967 (File No. 13322).

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 February 9, 1979 at 9:15 A.M. The petitioner appeared by Philip J. Coundouris, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether petitioners were residents of New York State during the entire year 1967.

FINDINGS OF FACT

1. Petitioners, Stephen Missailidis and Fay Missailidis, timely filed a joint New York State Income Tax Resident Return for 1967.

2. On November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency against the petitioners, imposing additional personal income tax for 1967 in the amount of \$824.62, plus interest of \$277.73, for a total of \$1,102.35. The deficiency was issued on the grounds that the petitioners were residents of New York for 1967 and, therefore, all income earned for said year was

taxable to New York; in addition, petitioners failed to report Federal audit adjustments made to itemized deductions for the year at issue.

3. Petitioners do not contest the Federal audit changes made to itemized deductions for 1967.

4. Petitioner Stephen Missailidis was born in New York State, where he remained until his admission into the United States Naval Academy at Annapolis. Petitioner Stephen Missailidis graduated from the Naval Academy approximately in 1960. Upon his graduation, he returned to his parents' home in Brooklyn, New York, to await assignment from the Navy. During his stay in Brooklyn, New York, he married petitioner Fay Missailidis. In 1962, petitioner Stephen Missailidis, while in the Navy, spent a brief period in California with his wife. Subsequently petitioner Stephen Missailidis was assigned by the Navy to Naples, Italy for approximately two years; again, accompanied by his wife.

5. In 1964, petitioner Stephen Missailidis was reassigned, by the Navy, to Norfolk, Virginia. While stationed in Norfolk, Virginia, petitioners and their two children resided in a rented one family house outside the military installation from November 21, 1964 through May 30, 1967.

6. On June 30, 1967, petitioner Stephen Missailidis received an honorable discharged from the Navy. Petitioner Stephen Missailidis contended that, while in Virginia, he purchased land in North Carolina, where he ultimately intended to build a home for himself and his family after his discharge from the Navy. However, as a result of petitioner Stephen Missailidis' inability to obtain suitable employment in either North Carolina or Virginia, he did not build the home on the land acquired in North Carolina.

7. In July or August 1967, petitioner Stephen Missailidis obtained full-time employment with the General Electric Company in Schenectady, New York. From October 29, 1967, the Company paid the motel and living expenses

incurred by the petitioners and their two children until they acquired their own home in Scotia, New York on November 8, 1967.

CONCLUSIONS OF LAW

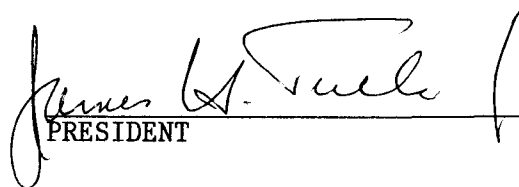
A. That the petitioner Stephen Missailidis was domiciled in New York State prior to his admission into Annapolis Naval Academy; that petitioner Stephen Missailidis did not establish the necessary intent to acquire a new domicile during his term in the Navy or subsequent thereto. That petitioners, Stephen Missailidis and Fay Missailidis, were domiciled in, and residents of, New York State in 1967, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That the petition of Stephen Missailidis and Fay Missailidis is denied and the Notice of Deficiency issued November 26, 1973 for the year 1967 is sustained, together with such additional interest as may be lawfully owing.

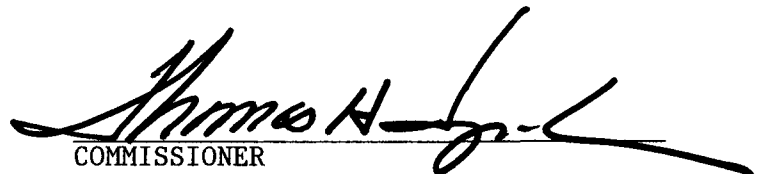
DATED: Albany, New York

STATE TAX COMMISSION

JAN 11 1980


PRESIDENT


COMMISSIONER


COMMISSIONER