

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Ronald & Josephine Steinman :
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 1973. :

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 Ronald & Josephine Steinman, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ronald & Josephine Steinman
36 Forestdale Rd.
Rockville Center, NY 20854
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

A large, stylized handwritten signature, likely of Jay Vredenburg, written in black ink over a horizontal line.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Ronald & Josephine Steinman :
AFFIDAVIT OF MAILING
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 1973. :

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 Robert N. Lang 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. Robert N. Lang
111 N. Central Avenue
Hartsdale, NY 10530

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

Jay Vredenburg

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

January 11, 1980

Ronald & Josephine Steinman
36 Forestdale Rd.
Rockville Center, NY 20854

Dear Mr. & Mrs. Steinman:

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
Robert N. Lang
111 N. Central Avenue
Hartsdale, NY 10530
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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

Petitioners, Ronald and Josephine Steinman, 36 Forestdale Road, Rockville Center, New York, 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. 18832).

A small claims hearing was held before Allen Caplowaith, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 17, 1979 at 9:15 A.M. Petitioners appeared by Robert N. Lang, CPA. The Audit Division appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether petitioners were domiciled in, and residents of, the State of New York during the entire taxable year 1973.

FINDINGS OF FACT

1. Petitioners, Ronald and Josephine Steinman, filed a New York State Income Tax Resident Return for 1973 in which they indicated their period of New York State residence was August 1, to December 31, 1973.

2. On May 20, 1975, a Statement of Audit Changes was issued to petitioners holding that they were residents of New York State for the entire year 1973. On February 28, 1977, the Audit Division issued a Notice of Deficiency against petitioners, asserting additional tax due in the amount of \$853.90, plus interest of \$194.41 for a total due of \$1,048.31.

3. Petitioners contended that they were domiciliaries and residents of London, England, from January 1, to July 31, 1973, after which they effected a change of both domicile and residence to the State of New York.

4. Petitioner Ronald Steinman had been continuously employed by the National Broadcasting Company (NBC) as a journalist from March 1957 through the close of the year at issue.

5. Petitioner Ronald Steinman, a native New Yorker and resident thereof, was assigned to NBC's New York office prior to assuming overseas duties. In May, 1966, he was assigned by NBC to Viet Nam. Said assignment terminated in June, 1968, at which time he was reassigned to Hong Kong. Petitioner was married during his assignment in Hong Kong.

6. In September, 1969, at the request of petitioner Ronald Steinman, NBC reassigned him to the London office, as the Director of News Operations. He leased an apartment in London with his wife and daughter, purchasing the remaining seven years of a previous tenant's twenty-year lease.

7. Petitioner entered England under a work permit which allowed him to work for NBC as a foreign national in England.

8. In July of 1973, NBC gave the petitioner the option to either remain overseas or to return to New York. He opted and returned to New York, setting up residence with his wife, daughter and two sons, who were born in England.

9. Petitioner contended that when he was assigned to England he intended to remain overseas permanently.

10. Petitioner remained a United States citizen during his assignment overseas, and never applied for citizenship in any of the foreign countries where he was stationed.

11. While overseas, petitioner continuously maintained bank accounts in New York State.

CONCLUSIONS OF LAW

A. That the petitioner Ronald Steinman moved to London, England, as well as the other foreign locations, at the discretion of his employer. His stay at each foreign location was for an indefinite duration, directly and solely related to his employment. That the personal income tax regulation, 20 NYCRR 102.2(d)(3) states in part that:

"...a United States citizen will not ordinarily be deemed to have changed his domicile by going to a foreign country, unless it is clearly shown that he intends to remain there permanently."

Petitioner Ronald Steinman did not establish that he intended to remain abroad permanently. Therefore, petitioners, Ronald and Josephine Steinman, were domiciled in New York State during the entire taxable year 1973.

B. That any person domiciled in New York State is a resident for income tax purposes for a specific year unless for that year he satisfies all three of the following requirements:

(1) He maintains no permanent place of abode in this State during such year,

(2) he maintains a permanent place of abode elsewhere during such entire year, and

(3) he spends in the aggregate not more than 30 days of the taxable year in this State [20 NYCRR 102.2(b)].

That since the petitioners did not satisfy said requirements, they are residents of New York State within the meaning and intent of section 605(a) of the Tax Law for the entire taxable year 1973.

C. That the petition of Ronald and Josephine Steinman is denied, and the Notice of Deficiency dated February 28, 1977 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

JAN 11 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER