

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jean & Germaine Vuillequez :
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 Years 1969 & 1970. :

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 18th day of July, 1980, he served the within notice of Decision by certified mail upon Jean & Germaine Vuillequez, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:


Jean & Germaine Vuillequez
c/o Buhler, King & Buhler
274 Madison Ave.
New York, NY 10016

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
18th day of July, 1980.

Dorothy A. Bank



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Jean & Germaine Vuillequez :
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Personal Income Tax :
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for the Years 1969 & 1970. :

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 18th day of July, 1980, he served the within notice of Decision by certified mail upon Warren B. Kahn the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

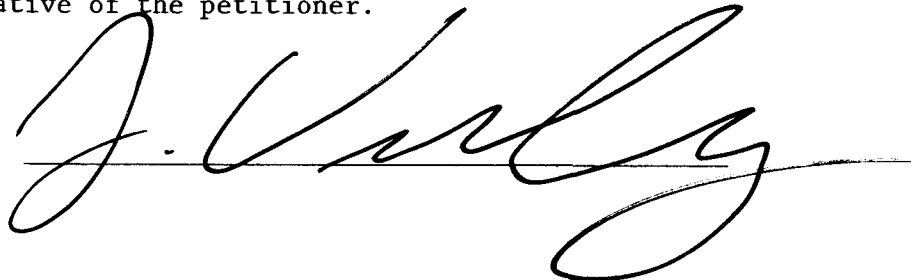
Mr. Warren B. Kahn
Buhler, King & Buhler
274 Madison Ave.
New York, NY 10016

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
18th day of July, 1980.

Detroit & Bank



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

July 18, 1980

Jean & Germaine Vuillequez
c/o Buhler, King & Buhler
274 Madison Ave.
New York, NY 10016

Dear Mr. & Mrs. Vuillequez:

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
Warren B. Kahn
Buhler, King & Buhler
274 Madison Ave.
New York, NY 10016
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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|--|---|----------|
| In the Matter of the Petition | : | |
| of | : | |
| JEAN VUILLEQUEZ and GERMAINE VUILLEQUEZ | : | DECISION |
| for Redetermination of a Deficiency or for | : | |
| Refund of Personal Income Tax under Article 22 | : | |
| of the Tax Law for the Years 1969 and 1970. | : | |

Petitioners, Jean Vuillequez and Germaine Vuillequez, c/o Buhler, King & Buhler, 274 Madison Avenue, New York, New York 10016, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970 (File No. 18474).

A formal hearing was held before Archibald F. Robertson, Jr., Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 30, 1977 at 11:00 A.M. Petitioners appeared by Buhler, King & Buhler (Warren B. Kahn, Esq., of counsel). The Audit Division appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUES

I. Whether petitioners were domiciliaries of New York State for the years 1969 and 1970.

II. Whether petitioners were resident individuals of New York State for personal income tax purposes during the years 1969 and 1970.

FINDINGS OF FACT

1. Petitioners, Jean Vuillequez and Germaine Vuillequez, filed joint New York State income tax nonresident returns for 1969 and for 1970, on which petitioner Jean Vuillequez allocated his salary income from Ametalco, Inc. by the ratio of days worked in New York to the total number of days worked.

Petitioners did not include as New York income dividends, interest and other income included in Federal income. On said return, petitioners listed their address as "c/o Buhler, King & Buhler, 274 Madison Avenue, New York, N.Y."

2. On November 16, 1973, the Income Tax Bureau issued a Notice of Deficiency to petitioners for 1969 and 1970 in the total amount of tax due of \$25,705.48, plus interest. The total amount was reduced by \$503.00, the overpayment shown on petitioners' 1970 return. The deficiency was imposed on the grounds that petitioners failed to furnish information that they were not domiciliaries of New York State and thus tax was recomputed based on the same income reported for Federal purposes.

3. Petitioner Jean Vuillequez was an employee of Ametalco Inc. (hereinafter "Ametalco") for the thirty years prior to his retirement in 1976.

4. Petitioner Jean Vuillequez was a domiciliary and resident of the State of Connecticut for the fifteen years prior to 1968.

5. Petitioner Jean Vuillequez moved to Zambia, Africa in March of 1968 in order to run Ametalco's operations in that country and to resolve its labor difficulties. The move was at the direction of his employer, Ametalco.

6. Petitioner Jean Vuillequez spent six years in Zambia, supervising Ametalco's business interests there. At the conclusion of his Zambian stay, he returned to the United States and rented an apartment in New York City in 1975, where he and his wife took up permanent residence.

7. Petitioner Germaine Vuillequez accompanied her husband on his travels throughout the period herein involved and was only in the United States and in the State of New York when he was.

8. Petitioner Jean Vuillequez sold his home in Connecticut in 1968 and spent a total of two days there in 1969 and 1970.

9. Petitioner Jean Vuillequez realized a capital gain of \$4,996.00 in 1969. He paid no taxes to the State of Connecticut or to any other state on this gain in 1969 and 1970.

10. Ametalco leased, maintained and paid for an apartment in New York City throughout the period herein involved. This apartment was placed at the disposal of Ametalco's directors and officers when their presence was required in the State of New York.

11. Petitioner Jean Vuillequez spent thirty-two days in the State of New York in 1969 and eighty days there in 1970. This represented almost the entire length of his stays in the United States for 1969 and 1970. Petitioner paid New York State nonresident personal income taxes for such days.

12. Petitioner Jean Vuillequez lived at Ametalco's apartment in New York City during his stays in New York in 1969 and 1970.

13. Petitioner Jean Vuillequez had his name listed in the Manhattan telephone directory throughout 1969 and 1970. The address and telephone number which accompanied his name were those of Ametalco's New York City apartment. Ametalco paid his telephone bills during that period.

14. Petitioner Jean Vuillequez maintained a New York bank account in 1969 and 1970. His paychecks for those years were split into two parts; one part was sent to him in Zambia and the other was deposited to his account in New York.

15. During the period herein involved, Mr. Vuillequez engaged a New York stockbroker to handle his securities transactions.

16. Petitioner Jean Vuillequez, a United States citizen in 1969 and 1970, claimed no United States domicile for those years. He paid no taxes based on domicile or residency anywhere in the United States during that period.

17. Mr. Vuillequez resided in Zambia for business purposes only and never had an intention to remain there permanently. Once his presence in Zambia was no longer required by Ametalco, he returned to New York City and took up residence there.

CONCLUSIONS OF LAW

A. That although petitioners may have left Connecticut in 1968 with no intention of returning, the record does not show that a domicile was established elsewhere during the years at issue and, accordingly, petitioners remained domiciliaries of Connecticut within the meaning and intent of 20 NYCRR 102.2(d)(1) and (2).

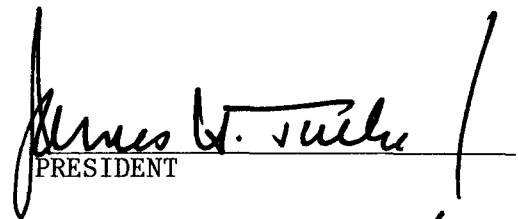
B. That petitioners have properly filed returns as nonresidents of New York State for the years 1969 and 1970 in accordance with the meaning and intent of sections 605(a) and (b) of the Tax Law.

C. That the petition of Jean Vuillequez and Germaine Vuillequez is granted and the Notice of Deficiency issued November 16, 1973 is cancelled; that the Audit Division is directed to authorize a refund of \$503.00, which amount represents the overpayment shown on petitioners' 1970 return, together with such interest as may be lawfully due petitioners.

DATED: Albany, New York

JUL 18 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER