

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Verna H. Hull :
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 :
1970 & 1971.

State of New York
County of Albany

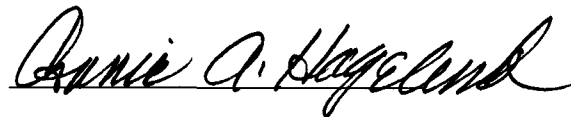
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 27th day of November, 1981, he served the within notice of Decision by certified mail upon Verna H. Hull, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

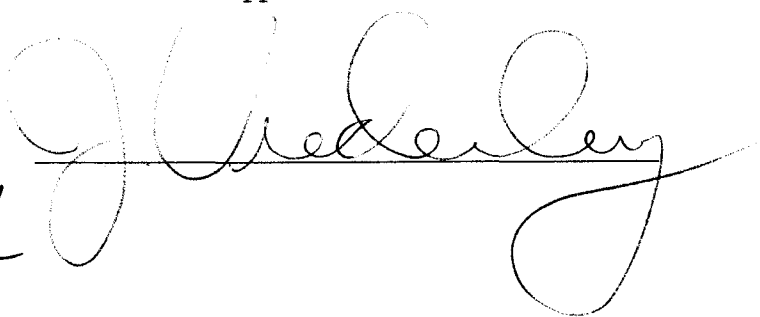
Verna H. Hull
St. Peter's Barbados
British West Indies

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
27th day of November, 1981.


Annie A. Hagelund


Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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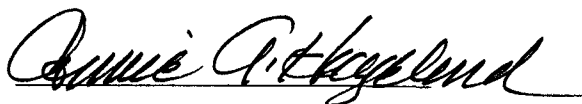
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 27th day of November, 1981, he served the within notice of Decision by certified mail upon Sidney Gelfand the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

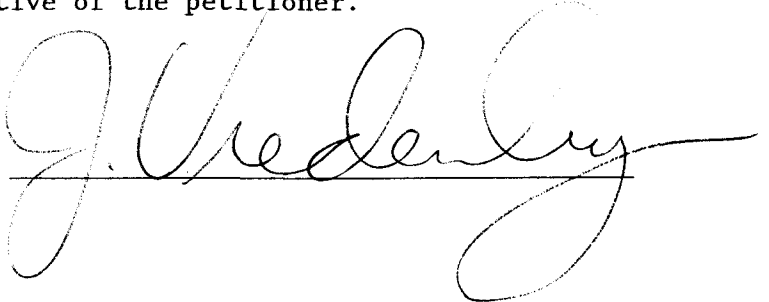
Sidney Gelfand
136 E. 57th St.
New York, NY 10022

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
27th day of November, 1981.


Annie P. Gelfand


Jay Vredenburg

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

November 27, 1981

Verna H. Hull
St. Peter's Barbados
British West Indies

Dear Ms. Hull:

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
Sidney Gelfand
136 E. 57th St.
New York, NY 10022
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
VERNA H. HULL	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1970 and 1971.	:	

Petitioner, Verna H. Hull, St. Peter, Barbados, British West Indies, 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 1970 and 1971 (File No. 21093).

A formal hearing was held before Gasper S. Fasullo, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 27, 1980 at 2:45 P.M. and continued to conclusion on May 29, 1980 at 9:15 A.M. Petitioner appeared by Sidney Gelfand, CPA. The Audit Division appeared by Ralph J. Vecchio, Esq. (Ellen Purcell, Esq., of counsel).

ISSUE

Whether petitioner was domiciled in the State of New York and a resident thereof for income tax purposes for the years 1970 and 1971.

FINDINGS OF FACT

1. Petitioner, Verna H. Hull, filed United States individual income tax returns (Form 1040) for the years 1970 and 1971. However, petitioner did not file New York State income tax resident returns for those years.

2. On the aforesaid United States income tax returns petitioner's address is given as "c/o M. Marks, C.P.A., 60 East 42nd Street, New York, New York", the accountant who prepared said return.

3. On October 6, 1976 a Statement of Audit Changes was issued to petitioner asserting a personal income tax to be due for the year 1970 in the sum of \$1,502.70, plus penalty and interest and asserting a personal income tax to be due for the year 1971 in the sum of \$3,589.32, plus penalty and interest for a total sum of \$5,092.02 plus penalty and interest. Accordingly, on October 31, 1977 a Notice of Deficiency was issued against petitioner.

4. Petitioner denies any income tax is due and contends that she was not a resident of or domiciled in the State of New York after the year 1969 when she moved to her house in Barbados, British West Indies.

5. Petitioner's house in Barbados was purchased by her in 1962 and shortly thereafter she arranged for some of her furniture and her automobile to be shipped from New York to said house in Barbados.

6. From or about the year 1960 petitioner resided in a studio apartment at 136 East 64th Street, New York, New York. On July 17, 1967 petitioner renewed her lease to said apartment for the additional period beginning October 1, 1967. She abandoned her studio apartment in 1969.

7. Since petitioner purchased her house in Barbados as aforesaid, and prior thereto, she has actively participated in numerous social, charitable and community affairs in Barbados.

8. In or about 1962 petitioner purchased a plot in a local cemetery in Barbados where she and her mother would be buried upon death. In 1963 when her mother died her body was interred in that grave.

9. The petitioner, an artist by profession, is 64 years of age, unmarried, has no children, no parents alive, no brothers and no sisters. She contends her "roots" are now in Barbados and she has no intention of returning to New York.

10. Since 1960 the petitioner has had a license to operate a motor vehicle in Barbados which license is still in effect.

11. After 1969 petitioner returned to New York in the spring of each year for the purpose of receiving medical and/or dental treatment. On each visit to New York petitioner has stayed with friends for a period of between three or four weeks.

12. Petitioner sold her country home in Chappaqua, New York, in May, 1969.

13. In her 1971 United States income tax return petitioner states that during the year 1971 she had an "interest in or signature or other authority over a bank, securities or other financial account in a foreign country" whereas in her 1970 United States income tax return she states that for the year 1970 she maintained no such financial account in a foreign country.

CONCLUSIONS OF LAW

A. That the petitioner Verna H. Hull showed the necessary intent to establish a domicile in the Barbados prior to 1970.

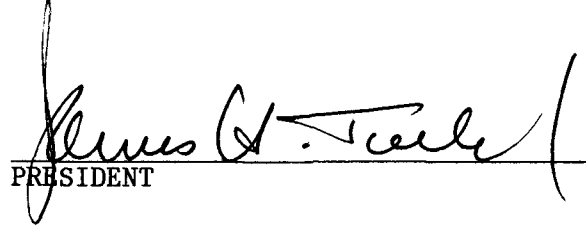
B. That since petitioner Verna H. Hull, a nondomiciliary of New York State, did not maintain a permanent place of abode in this State during 1970 and 1971 and spent less than 183 days in this State during said years she is a nonresident individual within the meaning and intent of section 605(b) of the Tax Law and 20 NYCRR 102.3.

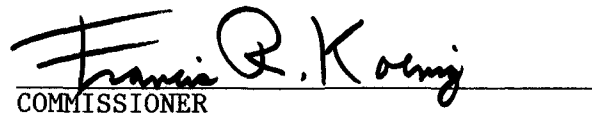
C. That the petition of Verna H. Hull is granted and the Notice of Deficiency issued on October 31, 1977 is cancelled.

DATED: Albany, New York

NOV 27 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER