

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Leonard & Miriam Solomon :
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 :
1970.

State of New York
County of Albany

AIRMAIL 47
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 December, 1981, he served the within notice of Decision by ~~certified~~ mail upon Leonard & Miriam Solomon, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Leonard & Miriam Solomon
F-5 Woodland Hts.
2 Wongneichong Gap
Hong Kong

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 December, 1981.

Carroll P. [Signature]

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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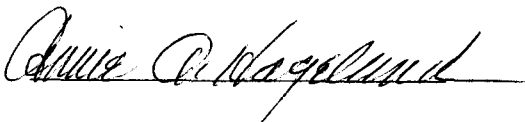
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of December, 1981, he served the within notice of Decision by certified mail upon Max Grill the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

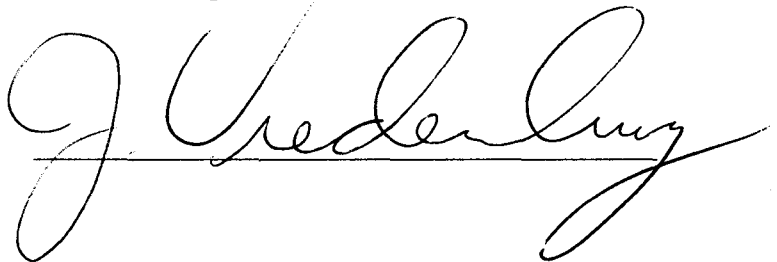
Max Grill
Hecht, Frank, Brayer & Grill
1501 Broadway
New York, NY 10036

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 December, 1981.





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

December 11, 1981

Leonard & Miriam Solomon
F-5 Woodland Hts.
2 Wongneichong Gap
Hong Kong,

Dear Mr. & Mrs. Solomon:

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
Max Grill
Hecht, Frank, Brayer & Grill
1501 Broadway
New York, NY 10036
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
LEONARD SOLOMON and MIRIAM SOLOMON	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1970.	:	

Petitioners, Leonard Solomon and Miriam Solomon, F-5 Woodland Heights, 2 Wongneichong Gap Road, Hong Kong, 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 1970 (File No. 13728).

A small claims hearing was held before Carl P. Wright, Hearing Officer, at the office of the State Tax Commission, Two World Trade Center, New York, New York, on March 8, 1979 at 2:45 P.M. Petitioners appeared by Max Grill, CPA. The Audit Division appeared by Peter Crotty, Esq. (Bruce Zalaman, Esq., of counsel).

ISSUE

Whether petitioners were domiciliaries of New York State during 1970.

FINDINGS OF FACT

1. Petitioners, Leonard Solomon and Miriam Solomon, filed a part-year New York State income tax resident return for 1970, in which they indicated that their period of New York State residence was January 1, 1970 to July 3, 1970.

2. On November 26, 1973, the Income Tax Bureau issued a Notice of Deficiency against petitioners, asserting personal income tax of \$1,405.12, plus interest of \$135.49, less an overpayment shown on their return of \$541.00, for a total due of \$999.61. The Notice was issued on the grounds that petitioners did not

change their domicile during 1970 and, therefore, they were taxable as New York residents on the total income they received from all sources to the extent such income was reportable for Federal income tax purposes.

3. In February of 1970, petitioner Leonard Solomon accepted a position in Hong Kong as Far Eastern representative for the Ideal Toy Corporation. The position was for an indefinite duration. He was required to leave immediately, but his family remained behind until July of 1970, at which time his daughter completed her school year. Thereafter, his family moved to Hong Kong.

4. Petitioners rented their house in New York under a two-year lease, with an option to purchase. Their residence was sold prior to April of 1972. Prior to July of 1970, they disposed of two automobiles and some personal possessions while in the United States. They shipped all their remaining tangible assets to Hong Kong where they leased an apartment.

5. Petitioners entered Hong Kong under an indefinite employment visa. They registered as permanent residents with the Hong Kong government and received identification papers. Petitioners paid taxes to said government for 1970 and 1971.

6. Petitioners' daughter attended the International School in Hong Kong and majored in oriental studies. She intended to live in Hong Kong after she completed her education. Petitioner Miriam Solomon attended Hong Kong University and received a certificate as a marriage counselor. She volunteered her services as such for which she received no compensation.

7. Petitioners had a bank account in Hong Kong and joined the American Chamber of Commerce, the Hong Kong Chamber of Commerce, the American Club in Hong Kong, the Foreign Correspondence Club and Ladies' Recreation Club.

8. Both the Ideal Toy Corporation and the petitioners agreed that petitioner Leonard Solomon's position required him to remain in Hong Kong permanently, since the nature of his position as a buyer and a factory supervisor was such that a temporary stay would not serve the needs of his employer.

CONCLUSIONS OF LAW

A. That a domicile once established continues until the person in question moves to a new location with the bona fide intention of making his fixed and permanent home there (20 NYCRR 102.2(d)(2)).

B. That the presumption against a foreign domicile is stronger than the general presumption against a change of domicile and less evidence is required to establish a change of domicile from one state to another, than from one nation to another (Matter of Newcomb, 192 N.Y. 238; Matter of Bodfish v. Gallman, 50 A.D.2d 457).

C. That petitioners have failed to show that they intended to remain in Hong Kong any longer than petitioner Leonard Solomon's period of employment there with Ideal Toy Corporation. Therefore, petitioners did not establish a new domicile in Hong Kong and remained domiciled in New York State.

D. That petitioners were domiciled in New York State and residents of this State during 1970 in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2(b).


E. That the petition of Leonard Solomon and Miriam Solomon is denied and the Notice of Deficiency issued November 26, 1973 is sustained.

DATED: Albany, New York

DEC 11 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

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of

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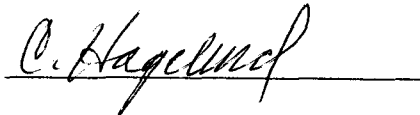
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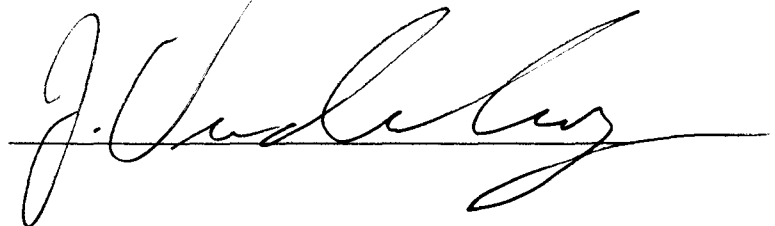
Leonard & Miriam Solomon
215 East 68th Street
New York, NY 10021

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Sworn to before me this
16th day of April, 1982.


C. Hagelund


J. Vredenburg

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

Forwarded

APR 16 1982

~~December 11, 1981~~

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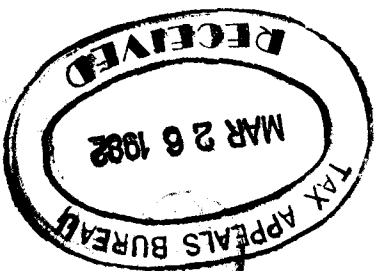
NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Max Grill
Hecht, Frank, Brayer & Grill
1501 Broadway
New York, NY 10036
Taxing Bureau's Representative

STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



Leonard & Miriam Solomon
F-5 Woodland Hts.
2 Wongneichong Gap
Hong Kong,

[illegible]

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b7c 81-521

Law B.

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STATE TAX COMMISSION

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16th day of April, 1982.

C. Haglund

J. Vredenburg

TA 26 (9-79)
 STATE OF NEW YORK
 State Tax Commission
 TAX APPEALS BUREAU
 STATE CAMPUS
 ALBANY, N. Y. 12227



Leonard & Miriam Solomon
 F-5 Woodland Hts.
 2 Wongneichong Gap
 Hong Kong,

125-18-7209
 128-14-9279

RECEIVED
 RETURN PROVIDED
 RETURN PROVIDED

☐ Refund ☒ Refund
☐ Due ☒ Due
☐ Line ☒ Line
☐ No ☒ No
☐ Acc ☒ Acc
☐ Part ☒ Part
☐ Lab ☒ Lab

MAILED