

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
W. James & Susan Wilson :  
: 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 :  
1974. :

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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 14th day of August, 1981, he served the within notice of Decision by certified mail upon W. James & Susan Wilson, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

W. James & Susan Wilson  
42 Vernon Ave.  
Atlantic Beach, NY 11509

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  
14th day of August, 1981.

*Channie G. Hagelund*

*Jay Vredenburg*

STATE OF NEW YORK  
STATE TAX COMMISSION

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Tax under Article 22 of the Tax Law for the Year :  
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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 14th day of August, 1981, he served the within notice of Decision by certified mail upon Paul H. Frankel the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Paul H. Frankel  
W.R. Grace & Co.  
1114 Ave. of the Americas, 44th Floor  
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  
14th day of August, 1981.

*Annice A. Hagelund*

*J. Vredenburg*

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

August 14, 1981

W. James & Susan Wilson  
42 Vernon Ave.  
Atlantic Beach, NY 11509

Dear Mr. & Mrs. Wilson:

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  
Paul H. Frankel  
W.R. Grace & Co.  
1114 Ave. of the Americas, 44th Floor  
New York, NY 10036  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
W. JAMES WILSON and SUSAN WILSON	:	DECISION
	:	
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22 :	:	
of the Tax Law for the Year 1974.	:	

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Petitioners, W. James Wilson and Susan Wilson, 42 Vernon Avenue, Atlantic Beach, New York 11509, 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 1974 (File No. 21612).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 8, 1980 at 10:45 A.M. Petitioner, W. James Wilson appeared with Paul H. Frankel, Esq. The Audit Division appeared by Ralph J. Vecchio, Esq. (A. Scopellito, Esq., of counsel).

ISSUE

Whether petitioners were domiciled in, and residents of, the State of New York during the year 1974.

FINDINGS OF FACT

1. Petitioners, W. James Wilson and Susan Wilson, filed a New York State Income Tax Resident Return for the period January 1, 1974 to June 18, 1974, on which they excluded income earned after June 18, 1974.

2. On January 30, 1978 the Audit Division issued a Notice of Deficiency for the year 1974, along with a Statement of Audit Changes, on which petitioners

were found to be residents of New York State for the entire year 1974 and all income was found to be taxable as such.

3. Petitioner, W. James Wilson, was born in California and raised in Pennsylvania. In 1969, petitioner, W. James Wilson, moved from his parents' home in Pennsylvania to an apartment in Bronx, New York, in order to attend graduate school at Columbia University. Shortly thereafter, he married petitioner Susan Wilson, who also moved into the aforementioned apartment. Prior to her marriage, petitioner Susan Wilson resided with her parents in Manhasset, New York.

4. In September, 1970 petitioner W. James Wilson completed his graduate studies and became employed with a firm headquartered in Connecticut. Petitioner contended that they remained in their Bronx apartment because of its low rent and to allow his wife to pursue a course of study at Columbia University.

5. In the summer of 1973, petitioner Susan Wilson obtained employment at New York University. Petitioners gave up their Bronx apartment and moved to another apartment in Washington Square Village, also in the City and State of New York.

6. In 1973, petitioner W. James Wilson accepted a position with W. R. Grace and Co. in the City and State of New York. In 1974, petitioner W. James Wilson was assigned to a subsidiary of W. R. Grace and Co. located in France. On June 18, 1974 petitioners moved to Paris, France and rented a furnished apartment.

7. While residing in New York during 1969 through June, 1974, petitioners were registered to vote (and voted) in New York, maintained bank accounts in New York, and held New York driver's licenses.

8. Petitioner W. James Wilson contended that his presence in New York State during 1969 through June, 1974 was temporary in nature and that he always considered the State of Pennsylvania as his permanent domicile.

9. Petitioners, W. James Wilson and Susan Wilson, filed New York State personal income tax resident returns for the years 1972 and 1973.

CONCLUSIONS OF LAW

A. That petitioners, W. James Wilson and Susan Wilson, were domiciled in the State of New York during the entire year 1974 in accordance with the meaning and intent of section 605 of the Tax Law and 20 NYCRR 102.2.

B. That petitioners, W. James Wilson and Susan Wilson, were resident individuals of the State of New York during the entire year 1974 within the meaning and intent of section 605(a)(1) of the Tax Law, and must compute their New York adjusted gross income within the purview of section 612 of the Tax Law.

C. That the petition of W. James Wilson and Susan Wilson is denied and the Notice of Deficiency issued January 20, 1978 is sustained, along with any additional interest as may be lawfully owing.

DATED: Albany, New York

AUG 14 1981

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER