

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Philip Goelet :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or for Refund :
of New York State and New York City Personal Income :
Taxes under Article 22 of the Tax Law and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York :

ss.:

County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 31st day of December, 1984, he served the within notice of Decision by certified mail upon Philip Goelet, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Philip Goelet
c/o Goelet Estate Co.
425 Park Ave.
New York, NY 10022

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
31st day of December, 1984.

David Parchuck

Nicholas J. Williams
Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK

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of New York for the Year 1977. :

State of New York :

ss.:

County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 31st day of December, 1984, he served the within notice of Decision by certified mail upon James F. Hoch, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

James F. Hoch
Shearman & Sterling
53 Wall St.
New York, NY 10005

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
31st day of December, 1984.

David Parchuck

Nicola J. Williams

Authorized to administer oaths
pursuant to Tax Law section 174

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

December 31, 1984

Philip Goelet
c/o Goelet Estate Co.
425 Park Ave.
New York, NY 10022

Dear Mr. Goelet:

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 & 1312 of the Tax Law and Chapter 46, Title T of the Administrative Code of the City of New York, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law 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
Law Bureau - Litigation Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
James F. Hoch
Shearman & Sterling
53 Wall St.
New York, NY 10005
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
PHILIP GOELET
for Redetermination of a Deficiency or for
Refund of New York State and New York City
Personal Income Taxes under Article 22 of the
Tax Law and Chapter 46 of Title T of the
Administrative Code of the City of New York for
the Year 1977.

DECISION

Petitioner, Philip Goelet, c/o Goelet Estate Co., 425 Park Avenue, New York, New York 10022, filed a petition for redetermination of a deficiency or for refund of New York State and New York City personal income taxes under Article 22 of the Tax Law and Chapter 46, Title T of the Administrative Code of the City of New York for the year 1977 (File No. 35169).

A small claims hearing was held before Robert F. Mulligan, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 13, 1984 at 9:15 A.M., with all briefs to be submitted by March 5, 1984. Petitioner appeared by Shearman & Sterling, Esqs. (James F. Hoch, Esq., of counsel). The Audit Division appeared by John P. Dugan, Esq. (Anne W. Murphy, Esq., of counsel).

ISSUE

Whether petitioner was a resident individual of New York State and New York City for the tax year 1977.

FINDINGS OF FACT¹

1. Petitioner, Philip Goelet, filed a 1977 New York State income tax

¹ Findings of Fact 3, 4, 5, 6, 7, 10 and 11 are based upon a stipulation between the parties.

nonresident return with New York City nonresident earnings tax for 1977 reporting \$53,252.00 in Federal income and no New York State or New York City income. He requested a refund of \$6,492.00 in State and City estimated taxes paid. A statement attached to the return indicated that nonresident status was claimed because petitioner, although a domiciliary of New York, maintained no permanent place of abode in New York during 1977, maintained permanent places of abode in England and France during 1977 and spent fewer than thirty days in New York during 1977.

2. On June 8, 1981 the Audit Division issued a Notice of Deficiency in effect denying the refund and asserting a deficiency of \$1,184.19, plus interest. Petitioner filed a timely petition protesting the deficiency.

3. Petitioner was born in England on September 16, 1955.

4. Petitioner lived primarily in England and at Sandricourt, his family's French estate, for the period from 1970 through the date of the hearing herein. During 1977, petitioner was a full-time university student in England. Petitioner lived on or near campus during 1977 because of his need to be near the university to attend classes. He lived some weekends at a home maintained by his family in London.

5. Sandricourt is an estate maintained by the Goelet family approximately 60 kilometers outside of Paris, France. The chateau at Sandricourt has eight to ten rooms used as bedrooms. The estate includes over 2,000 acres of surrounding woodland and land farmed by the family.

6. With the exception of three to four weeks spent in Hong Kong and the Philippines, petitioner lived at Sandricourt when he had sufficient time off from school in 1977 to allow him to leave England. With the exception of three

to four weeks as aforesaid, he spent the summer and holidays, including the Christmas holiday, at Sandricourt during 1977.

7. Sandricourt has been maintained by petitioner's family as a dwelling place all year for over forty years. Members of the taxpayer's family live at the chateau at all times of the year.

8. In the summer of 1976, petitioner came to the United States to visit relatives and to work. He spent an aggregate of over thirty (30) days in the State of New York during this period.

9. Due to petitioner's presence in the State of New York for such period, his representatives were of the opinion that he did not qualify as a nonresident for the year 1976 and a New York resident income tax return was prepared and filed.

10. During 1977, petitioner did not spend any time in the City or State of New York and did not maintain a permanent place of abode in the City or State of New York.

11. Petitioner was a domiciliary of the City and State of New York in 1977.

CONCLUSIONS OF LAW

A. That during the year at issue, section 605(a) of the Tax Law provided, in part, that a resident individual means an individual:

"(1) who is domiciled in this state, unless he maintains no permanent place of abode in this state, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this state ...".

Section T46-105.0(a)(1) of the Administrative Code of the City of New York contains a similarly worded provision with respect to resident individuals of the City of New York.

B. That since the parties have stipulated that petitioner was a domiciliary of New York State and New York City during 1977 and did not spend any time in or maintain a permanent place of abode in New York State and New York City during 1977, the only point to be resolved is whether petitioner maintained a permanent place of abode outside of New York State during 1977.


C. That petitioner's family estate at Sandricourt, in France, constituted petitioner's permanent place of abode during 1977. Thus, petitioner was not a resident individual of New York State or the City of New York during that year, within the meaning of section 605(a)(1) of the Tax Law or section T46-105.0(a)(1) of the Administrative Code of the City of New York.

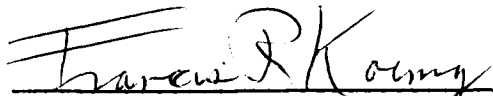
D. That the petition of Philip Goelet is granted. The Notice of Deficiency issued June 8, 1981 is cancelled and the refund requested is approved.

DATED: Albany, New York

STATE TAX COMMISSION

DEC 31 1984


PETITIONER


COMMISSIONER


COMMISSIONER