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Income Tax Determinations
**BUREAU OF LAW
MEMORANDUM**

A-2

Jacobs, Sidney and Regina

**TO: Commissioners Murphy,
Madduff and Conlon**

FROM: Vincent P. Nolineaux, Hearing Officer

SUBJECT: SIDNEY AND REGINA JACOBS

**Petition for Redetermination of
Personal Income Taxes under
Article 22**

A hearing on the above matter was held before me at 80 Centre Street, New York, New York on August 22, 1966.

The question at issue is whether salary earned by the taxpayer in California in 1962 is subject to personal income tax in the State of New York.

The taxpayer, Sidney P. Jacobs, Jr., terminated his employment with General Electric in Syracuse in September 1962 rather than accept a transfer. He then took employment with North American Aviation, Inc. in California with the alleged intention of moving his family there. He rented a house in California, acquired a California driver's license, acquired an automobile which he registered in California and opened a personal checking account and two charge accounts at local department stores.

Taxpayer's wife and two children remained in Syracuse for the alleged purpose of disposing of the Syracuse home, but arrangements were under consideration for moving the family, furniture and possessions to California and an extension of time was requested of taxpayer's employer for doing so due to the failure to sell the house as promptly as expected.

In the spring of 1963, the taxpayer, Sidney Jacobs, discontinued his employment in California and took a new position with the United States Government in Washington, D. C.

The Syracuse home was sold and the family moved to Arlington, Virginia at about the same time.

Having discontinued his employment in New York State and taken permanent employment in California and rented a house in California to which he was delayed in bringing his family only by the need to dispose of the former home in New York, the taxpayer had, as the husband, acquired a new domicile and consequently, abandoned the old one.

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Based upon the foregoing, it is my opinion that the taxpayer was not domiciled in New York after August 31, 1962 and that the income earned in California was not reportable for New York State income tax.

For the reasons stated above, I recommend that the decision of the Tax Commission granting the petition for redetermination in the above matter be substantially in the form submitted herewith.

/s/

VINCENT P. MOLINEAUX

Hearing Officer

VPM:rlp

Enc.

June 15, 1967

ok ms
LA 6-22-67

**STATE OF NEW YORK
STATE TAX COMMISSION**

IN THE MATTER OF THE PETITION

OF

SIDNEY AND REGINA JACOBS

**FOR REDETERMINATION OF A DEFICIENCY
OR FOR REFUND OF PERSONAL INCOME
TAXES UNDER ARTICLE 22 OF THE TAX
LAW FOR THE YEAR 1962**

The taxpayers, Sidney and Regina Jacobs, having 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 1962, File No. 2-8602059, and a hearing having been held at the office of the State Tax Commission at 80 Centre Street, New York, N.Y., on the 22nd day of August 1964 before Vincent P. Molinsaux, Hearing Officer of the Department of Taxation and Finance, and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed a New York State resident return for the year 1962 on which the tax shown to be due was paid.

(2) That on May 11, 1964 the State Tax Commission issued a statement of audit changes based upon income received by the taxpayer, Sidney P. Jacobs, Jr., from North American Aviation, Inc. received while petitioner was employed in the State of California.

(3) That the petitioner, Sidney P. Jacobs, Jr., was employed by North American Aviation, Inc. from September through December of 1962 and owned a house in California. The taxpayer

alleged that it was his intention to move his family, consisting of his wife and two sons to the California home.

(4) The wife with the two sons remained in New York solely for the purpose of disposing of the home owned in Syracuse and were prevented from joining the husband in their new home in California by reason of the delay in sale of the home which was eventually sold in 1963.

(5) That petitioner discontinued his employment in California in 1963 and that he then removed his family to Arlington, Virginia.

(6) That petitioners were not domiciled in New York after August 31, 1962.

(7) That the income received in 1962 from employment in California was not properly includible in income subject to tax under Article 22 of the Tax Law.

Based upon the foregoing findings, the State Tax Commission hereby,

DECIDES:

That the statement of audit changes adjusting the petitioners' New York income for the year 1962 is incorrect, that the petition for redetermination is granted and the notice of deficiency for such year is hereby cancelled and revoked.

Dated: Albany, New York this 10th day of July , 1967.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY
President

/s/

JAMES R. MACDUFF
Commissioner

/s/

WALTER MACLYN CONLON
Commissioner