

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

KENNETH A. GOULDTHORPE

For a Redetermination of a Deficiency or
a Refund of **Personal Income**
Taxes under Article ~~(s)~~ 22 of the
Tax Law for the Year ~~(s)~~ 1970.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

MARY GROFF, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 19th day of August, 1975, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon KENNETH A. GOULDTHORPE

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Kenneth A. Gouldthorpe
30 Fifth Avenue
New York, New York 10011

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~(s)~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

19th day of August, 1975.

Janet Mack

Mary Groff

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

KENNETH A. GOULDTHORPE

For a Redetermination of a Deficiency or
a Refund of **Personal Income**
Taxes under Article ~~(ss)~~ 22 of the
Tax Law for the Year ~~(ss)~~ 1970.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

MARY GROFF

, being duly sworn, deposes and says that

she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 19th day of August, 1975, she served the within

Notice of Decision ~~(for Redetermination)~~ by (certified) mail upon DOUGLAS BUCK, C.P.A.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Douglas Buck, C.P.A.
Auerbach & Buck, C.P.A.'s
310 Madison Avenue
New York, New York 10017

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

19th day of August, 1975.

Janet Mac

Mary Groff



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
~~James H. Tully, Jr.~~
~~MARIO A. PROCCACCIO, PRESIDENT~~
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
August 19, 1975

Mr. Kenneth A. Gouldthorpe
30 Fifth Avenue
New York, New York 10011

Dear Mr. Gouldthorpe:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section (*) 690 of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Nigel G. Wright

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

DECISION

A hearing was duly held on November 19, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Douglas Buck, C.P.A. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Alexander Weiss, Esq. The record of said hearing has been duly examined and considered.

ISSUE

The issue in the case is whether petitioner was a domiciliary of New York during the entire calendar year 1970.

FINDINGS OF FACT

1. Petitioner was born and raised in London, England. His parents still live in England. He came to the United States in 1951 to attend college in Missouri. He was naturalized as a citizen in 1956 while in Missouri.

2. Petitioner worked as a photographer while in college and shortly thereafter for the St. Louis Post Dispatch. In April, 1957, he was hired by Life magazine in New York City as a correspondent and reporter. His hopes were to become a foreign correspondent but he was stationed immediately in New York City. He was given domestic assignment for about a year and then assigned to the Caribbean area to which he traveled on assignment while still living in New York City. He leased a small apartment in the Greenwich Village area of New York City. In September, 1958, he married and moved into his wife's larger apartment.

3. In 1960, petitioner was assigned to the Paris office. He moved all his belongings to Paris in November, 1961. Life magazine paid for the move. He maintained a residence in Paris. This assignment was terminated in September, 1965.

4. In September, 1965, there was a delay in petitioner's reassignment; he moved back to New York City and lived in the Warwick Hotel for a few months. He then took an apartment on lease. He was assigned temporarily as an assistant entertainment editor which covered the arts both international and domestic.

5. In the Spring of 1966, petitioner was assigned to Sidney, Australia, where he was to become the regional editor for Life and was to start a new regional edition of Life. He expected a stay of at least five years, this being the normal assignment period of Life magazine. He bought a house just outside of Sydney.

6. Around 1967, Life magazine started to get into financial difficulty. The South Pacific edition of Life was to be cancelled and petitioner was told he would be reassigned or if he wanted, he would be given permission to look for work with someone else. He wished to remain in Australia but he returned to New York City to talk to the Life management. He had received an offer from Signature magazine to work in New York City but had rejected that. He received an offer from Reader's Digest to work in Sydney, Australia, and had initially accepted that offer. However, he chose instead to accept reassignment by Life to Mexico City to become the editorial director for the Latin American edition. He began this assignment in December, 1968, moving his household goods directly from Australia

to Mexico City. He was separated from his wife while in Australia and she stayed in Australia.

7. Again, in 1969, Life was having financial difficulties and decided to cease publication of the Latin American edition. In April, 1970 petitioner returned to New York.

8. In April, 1970, petitioner accepted a position as managing editor of Signature magazine, sponsored by the Diners Club. This was in New York City but it offered opportunity for personal travel overseas. He subleased an apartment in New York City for three months and then, deciding to stay for a longer period, in September, 1970 he purchased a cooperative apartment. He has remarried in New York since then. In June, 1973, he became employed as managing editor of Penthouse magazine.

9. Petitioner had cancelled his voter registration in New York City in 1960. He did not vote again until 1972.

10. Life magazine has a policy of rotating foreign correspondents to new assignments about every five years. The correspondents expect to remain in foreign assignments indefinitely.

11. Petitioner expressed his intention, with respect to his particular assignments and in general, that he wished to make his home in whatever place he was working.

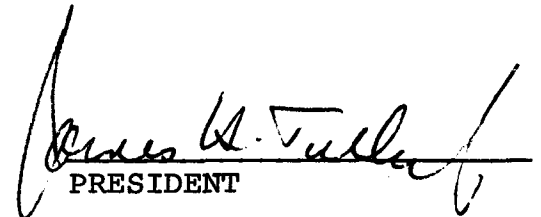
CONCLUSIONS OF LAW

Petitioner changed his domicile from New York to Paris in 1961 and thereafter changed again to Australia and to Mexico. At the beginning of 1970 he continued to be a domiciliary of Mexico and did not become a domiciliary of New York until April of 1970.

The deficiency is erroneous and is cancelled.

DATED: Albany, New York
August 19, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER