

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCIS M. and FRANCES FOGARTY

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Taxes :
Taxes under Article ~~(s)~~ 22 of the :
Tax Law for the Year ~~(s)~~ 1968. :

State of New York
County of Albany

MARY LOU SAMUELS , 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 30th day of March , 19 76, she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Francis M. and
Frances Fogarty ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. and Mrs. Francis M. Fogarty
56 Chung Hom Kok Road
Hong Kong, B.C.C.

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)~~
~~xx~~ 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

30th day of March , 1976.

James Mack

Mary Lou Samuels

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
FRANCIS M. and FRANCES FOGARTY :

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Taxes :
Taxes under Article ~~(ss)~~ 22 of the
Tax Law for the Year ~~(ss)~~ 1968. :

State of New York
County of Albany

MARY LOU SAMUELS , 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 30th day of March , 19 76, she served the within
Notice of Decision (~~on Redetermination~~) by (certified) mail upon Abraham Barlas,
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: Abraham Barlas, C.P.A.
c/o Shewitz and Barlas
250 West 57th Street
New York, New York 10019
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 30th
30th day of March , 1976.

Just Mark

Mary Lou Samuels



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER

(518) 457-3850

DATED: Albany, New York
March 30, 1976

Mr. and Mrs. Francis M. Fogarty
56 Chung Hom Kok Road
Hong Kong, B.C.C.

Dear Mr. and Mrs. Fogarty:

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

Please take further notice that pursuant to
Section ~~690~~ **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,


PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
FRANCIS M. and FRANCES FOGARTY	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1968.	:	

Petitioners, Francis M. and Frances Fogarty, 56 Chung Hom Kok Road, Hong Kong, B.C.C., have 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 1968. (File No. 9-49852165.)

Petitioner timely filed a New York State income tax resident return for 1968, claiming New York State residence for only the first six months of that year.

A Notice of Determination of deficiency in personal income tax for the year 1968 was issued on February 22, 1971, stating that upon audit it was held that no change of domicile or change of residence had occurred and that the taxpayers were considered to be residents of New York State for the full taxable year in question.

Petitioners filed a petition for redetermination of deficiency on ~~July 26, 1971~~. The case was submitted for decision on information contained in the file.

ISSUE

The issue in this case is whether petitioners' change of residence from Larchmont, New York, to Zurich, Switzerland, during the year 1968 constituted a change of domicile.

FINDINGS OF FACT

1. The petitioners were both born in Kingston, Pennsylvania, in which state they were married, lived most of their lives and where five of their six children were born. Petitioner, Francis M. Fogarty's will, executed in 1965, while he resided in Hong Kong, cites Pennsylvania as his domicile.

2. Born in 1921, the petitioner resided in Pennsylvania from that date until 1960. Thereafter, he lived in New York State briefly for three years, moving to Hong Kong in 1963 and returning to New York two years later.

3. In 1968, the petitioners owned a home and lived at 82 Shore Drive, Larchmont, New York. Petitioner, Francis M. Fogarty, was employed by General Time Corporation as an International Marketing Director in the United States for a short period of time with the

intention of leaving for Europe and establishing an international foreign business headquarters for General Time Corporation. His duties required the establishment of a permanent residence abroad with occasional trips to the company's headquarters in Stamford, Connecticut. As a result, he sold his home in Larchmont, New York, in June, 1968, and left the United States on June 30, 1968, establishing his residence at Chapfstrasse 37, 8142 Vitikon-Waldegg, Zurich, Switzerland, where he set up the company's European headquarters. Petitioner, Francis M. Fogarty, brought his wife and seven children with him, renting a house in Zurich and registering his children in a school in Switzerland. Petitioner, Francis M. Fogarty, and his family moved to Hong Kong (where he presently resides) on September 14, 1970, at the request of his company, in order to establish and supervise their Far East operation in addition to retaining his supervisory duties in connection with the European operation. Again, he took his wife and children with him and had his children registered in a school in Hong Kong.

4. Upon leaving for Switzerland in 1968, and in conformity with his intention to change his domicile, petitioner, Francis M. Fogarty, did not retain any residence or place of abode in New York or the

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

FOREIGN

RETURN TO SENDER RETOUR A L'ENVOYEUR	
<input type="checkbox"/> Refused	<input type="checkbox"/> Unknown
<input type="checkbox"/> Deceased	<input type="checkbox"/> Incomplete
<input type="checkbox"/> Undelivered	
<input type="checkbox"/> Unclaimed	
<input type="checkbox"/> Non reclaimé	
<input type="checkbox"/> No such address	
<input type="checkbox"/> Adresse inexistante	
<input type="checkbox"/> Address incorrect	
<input type="checkbox"/> Adresse incomplète	
<input type="checkbox"/> Moved, address unknown	
<input type="checkbox"/> Part residence not known	
<input type="checkbox"/> Not occupied	
<input type="checkbox"/> Inhabité	

Mr. and Mrs. J. J. Fogarty

56 Chung

Hong Kong, B.C.

Paul B. Cohen

IT-775 (1/64)

Income Tax Bureau

BETTER ADDRESS

INSTRUCTIONS TO FILES:

- ☒ Find most recent address of taxpayer
- ☐ Find most recent address of partner or fiduciary

SS # 77-12-1559

INSTRUCTIONS TO CHARGE DESK:

Francis M. Fogarty
57 Chung Hom Koff Rd.
Hong Kong B.C.C.

- ☒ Remail c/o Employer
(If more than one employer,
list name)

- ☒ Remail to taxpayer at:

Examiner Paul Colburn
Division TAB Unit Room 107, Bldg 9, Campus

FILES SECTIONS SEARCHES:

on following

- ☐ Latest Kardvayer 19 _____
Other K.V. Years 19 _____

6761 Front St / Back

- ☐ Telephone Book _____

Hampstead, 7-31

- ☐ City Directory _____

- ☐ Other _____

Searched by SK
Date 8/20/76

File Section _____

PERMANENT RECORD

ATTACH TO LOWER LEFT CORNER OF RETURN
STAPLE LEFT SIDE ONLY

United States, nor did he even store any furniture, household goods or personal belongings in New York or the United States.

5. Federal income tax forms 2555 were filed and indicate that the taxpayers qualified as bona fide residents of Zurich and Hong Kong for the years 1968, 1969 and 1970. Forms for subsequent years were not requested.

CONCLUSIONS OF LAW

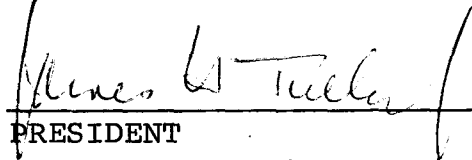
A. Petitioners, Francis M. and Frances Fogarty, abandoned their New York State domicile when they moved abroad in 1968, since they moved to a new location overseas with the bona fide intention of making their fixed and permanent home there.

B. Petitioners are taxable as New York State residents only for the period from January 1 to June 30, of the taxable year 1968. They are not taxable for the balance of said year.

C. The taxpayers' petition is sustained. It is determined that there is no deficiency against petitioners in personal income tax for the year 1968.

DATED: Albany, New York
March 29, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCIS M. and FRANCES FOGARTY

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) 1968

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

State of New York
County of Albany

JANET MACK

, 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 27th day of May, 1976, she served the within
Notice of Decision (~~xx Determination~~) by (certified) mail upon Francis M. and
Frances Fogarty (~~representative of~~) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. and Mrs. Francis M. Fogarty
6761 Front Street/Barlas
Hempstead, New York

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~~
~~xxxxxxx~~
~~xx~~) petitioner herein and that the address set forth on said wrapper is the last
known address of the (~~representative of the~~
~~xxxxxxxxxxxxxx~~) petitioner.

Sworn to before me this

27th day of May, 1976.

Mary [Signature]

Janet Mack