

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANK A. and MARGARET TIMONI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(x)~~ 22 of the :
Tax Law for the Year ~~(x) or Period(s)~~ 1973. :

State of New York
County of Albany

Bruce Batchelor , 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 21st day of December , 1976 , ~~he~~ served the within
Notice of Decision by (certified) mail upon Frank A. and
Margaret Timoni ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Frank A. Timoni
5 Roosevelt Street
Staten Island, New York 10304
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)~~
~~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

21st day of December , 1976.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

December 21, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Frank A. Timoni
5 Roosevelt Street
Staten Island, New York 10304

Dear Mr. & Mrs. Timoni:

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

Please take further notice that pursuant to
Section(~~x~~) **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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Section 690(b)(1) Representative~~

Taxing Bureau's Representative:

STATE TAX COMMISSION

In the Matter of the Petition :
of :
FRANK A. AND MARGARET TIMONI : DECISION
for Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1973.

Petitioners, Frank A. and Margaret Timoni, residing at 5 Roosevelt Street, Staten Island, New York 10304, have filed a petition for re-determination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973. (File No. 3-49003422).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on July 12, 1976 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Margaret Timoni. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

Whether the petitioners, Frank A. and Margaret Timoni, became domiciliaries of New York State on September 1, 1973.

FINDINGS OF FACT

1. The petitioners, Frank A. and Margaret Timoni, timely filed New York State resident and nonresident income tax returns and a joint Federal income tax return.
2. On November 24, 1975, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners for the year 1973, asserting additional tax was due on the ground that the petitioners affected a change of domicile to New York State on September 1, 1973, rather than December 6, 1973, as reported in petitioners' returns and were resident individuals from September 1, 1973, forward. A Notice of Deficiency in the amount of \$523.74 was issued.
3. From January 1, 1973, until August 31, 1973, the petitioner, Frank A. Timoni, was domiciled and a resident of Pompano Beach, Florida. On September 1, 1973, the petitioner, Frank A. Timoni, received an appointment as an Assistant Professor in the Business Division at Fiorello H. LaGuardia Community College. The petitioner's employment was considered temporary, "in that service beyond this period of September 1, 1973 to June 30, 1974 would be possible only upon affirmative action by the Board of Higher Education, and subject to financial ability." The petitioner was rehired and continues to be employed by the aforesaid college.
4. During the period of September 1, 1973 to December 31, 1973, the petitioner, Frank A. Timoni, rented an apartment located in Forest Hills, New York. Petitioner, Margaret Timoni, and the petitioner's children remained in Florida until their home was sold on December 4, 1973.

5. The petitioner, Frank A. Timoni, asserted that he has not changed his Florida wills and still is registered to vote in Florida. The petitioner, Frank A. Timoni, maintains a Florida drivers license.

CONCLUSIONS OF LAW

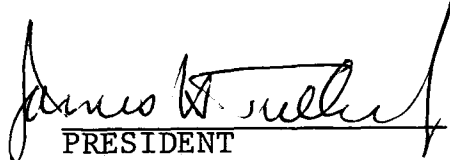
A. That the petitioners, Frank A. and Margaret Timoni, became domiciliaries and residents of the State of New York in September of 1973.

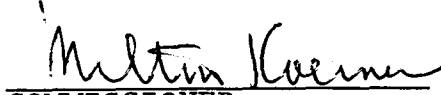
B. That all the income received while a resident, regardless of source, is subject to New York State personal income tax.

C. That the petition of Frank A. and Margaret Timoni is denied and the Notice of Deficiency dated November 24, 1975 is sustained.

DATED: Albany, New York
December 21, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER