

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANKLIN H., JR. & FLORA E. BRANIN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the Year(s) ~~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 25th day of May, 1977, he served the within
Notice of Decision by (certified) mail upon Franklin H., Jr. &
Flora E. Branin

(~~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. Franklin H. Branin
One Stone Ridge Court
Woodstock, New York 12498

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 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

25th day of May, 1977.

Bruce Batchelor

Janet MacL



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

May 25, 1977

TELEPHONE: (518) **457-1723**

Mr. & Mrs. Franklin H. Branin
One Stone Ridge Court
Woodstock, New York 12498

Dear Mr. & Mrs. Branin:

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.

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: ~~Production/Personnel~~

Taxing Bureau's Representative:

STATE TAX COMMISSION

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, State Campus, Building #9, Albany, New York. on January 26, 1977, at 2:45 P.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Andrew Haber, Esq. of counsel).

ISSUE

Were petitioners, Franklin H., Jr. and Flora E. Branin, resident individuals of New York State during the year 1973?

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. On September 1, 1973, petitioner, Franklin H. Branin, Jr., was transferred from New York State to Canada under a contract of employment for a period of one year. His contract was extended for a second year.

2. At the time of the transfer, petitioner, Franklin H. Branin, Jr., did not know where he would go after the transfer period expired.

3. Petitioner, Franklin H. Branin, Jr., returned to his employer's New York State place of business after said period of time was over.

4. Petitioners, Franklin H., Jr. and Flora E. Branin, did not sustain the burden of proof necessary to establish that they changed their domicile from New York to Canada.

5. Petitioners, Franklin H., Jr. and Flora E. Branin, did not establish a permanent place of abode in Canada in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

6. That the petition of Franklin H., Jr. and Flora E. Branin is denied and the Notice of Refund Disallowance issued October 27, 1975 in the amount of \$660.55 is sustained.

DATED: Albany, New York
May 25, 1977

STATE TAX COMMISSION

PRESIDENT

Milton Kamm
COMMISSIONER

Thomas H. L.
COMMISSIONER

*Comer Kamm is Teller
but that decision not
detailed enough*