

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NIELS DE GROOT and BARBARA J. DE GROOT

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income and  
Unincorporated Business  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year(s) ~~XXXXXX~~  
1971 and 1972.

State of New York  
County of Albany

Marsina Donnini, 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 26 day of August, 1977, she served the within Notice of Decision by ~~(certified)~~ mail upon Niels De Groot and Barbara J. De Groot ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Niels De Groot and Barbara J. De Groot  
5 Cologne 1  
West Germany  
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)~~ ~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~(representative of)~~ ~~XXXXXX~~ petitioner.

Sworn to before me this

26th day of August

, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

NIELS DE GROOT and BARBARA J. DE GROOT

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of <sup>Personal Income and</sup> :  
<sup>Unincorporated Business</sup> :  
Taxes under Article(s) 22 & 23 of the :  
Tax Law for the Year(s) ~~XXXXXXX~~ :  
1971 and 1972.

State of New York  
County of Albany

Marsina Donnini, 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 26 day of August, 1977, she served the within Notice of Decision by (certified) mail upon Paul H. Zuckerman, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Paul H. Zuckerman, Esq.  
1626 East 23rd Street  
Brooklyn, New York 11229  
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

26th day of August, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

August 26, 1977

Niels De Groot and Barbara J. De Groot  
5 Cologne 1  
West Germany

Dear Mr. and Mrs. De Groot:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690 & 722** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Paul B. Coburn**  
**Supervising Tax**  
**Hearing Officer**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petitions	:	
of	:	
NIELS DE GROOT and BARBARA J. DE GROOT	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income and Unin-	:	
corporated Business Taxes under Articles	:	
22 and 23 of the Tax Law for the Years	:	
1971 and 1972.	:	

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Petitioners, Niels DeGroot and Barbara J. DeGroot, 5 Cologne 1, West Germany, filed petitions for redetermination of a deficiency or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law for the years 1971 and 1972. (File Nos. 12011 and 12012).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 20, 1977 at 1:15 P.M. Petitioners appeared by Paul H. Zuckerman, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

#### ISSUES

I. Whether petitioner, Niels DeGroot, maintained a regular place of business outside of New York State during the years 1971 and 1972.

II. Whether petitioners, Niels DeGroot and Barbara J. DeGroot, were resident individuals of New York State in 1972.

FINDINGS OF FACT

1. On March 31, 1975, the Income Tax Bureau issued a Statement of Audit Changes against, petitioner, Niels DeGroot, imposing additional unincorporated business tax due to the disallowance of an allocation of business income for the years 1971 and 1972. Accordingly, the Income Tax Bureau issued a Notice of Deficiency in the amount of \$6,440.54, plus interest of \$975.03, for a total of \$7,397.57.

2. On March 31, 1975, the Income Tax Bureau issued a Statement of Audit Changes against Niels DeGroot and Barbara J. DeGroot, imposing additional income tax for the year 1972 on the grounds that they were residents of New York State for income tax purposes for the entire year. Accordingly, the Income Tax Bureau issued a Notice of Deficiency in the amount of \$1,026.46, plus interest of \$150.80, for a total of \$1,177.26.

3. Petitioners, Niels DeGroot and Barbara J. DeGroot, filed New York State income tax resident returns for the years 1971 and 1972. Their address was 65 East 76th Street, New York, New York. Their New York State income tax return for 1972 stated a New York residence from January 1, 1972 to December 10, 1972. They also filed a nonresident return for 1972 and stated their address to be Theodor-Heuss-Ring 62, 5 Cologne 1, West Germany.

4. During the years in issue, petitioner, Niels DeGroot, was a management consultant involved in acquisitions and mergers of American and European corporations primarily in the drug and pharmaceutical field. He divided his time equally between New York, Paris and Cologne. In New York City, New York, he rented an apartment on 76th Street in which a room was set aside for an office. He had similar rented accommodations in Paris and Cologne with some office equipment and an answering service. He had no employees during the periods in issue. He has some twenty clients in Germany and eleven in France, several more in Europe, Latin America and the Far East. The petitioners were and continue to be naturalized American citizens. Niels DeGroot was an absentee voter from Paris in the American elections of 1972. In 1972, 911 exclusion (earned income from sources without the United States) was not claimed with the Federal Internal Revenue Service. In 1974, petitioner's representative requested that an audit for 1972 by the Internal Revenue Service be conducted in New York, and that he could be reached at his New York address. The Federal examination which was completed in 1975 and which advised acceptance of the 1972 return as filed, was sent to Cologne, Germany. A publication, The Economist, dated November 22-28, 1975, contained an advertisement for Niels de Groot & Co., Paris, London, Copenhagen, Brussels, Dusseldorf, Tokyo and New York.

5. Petitioner, Niels DeGroot, did not offer documentary or other substantial evidence that his unincorporated business entity had a regular place of business outside of New York State in 1971 and 1972.

6. Petitioners, Niels DeGroot and Barbara J. DeGroot, did not offer documentary or other substantial evidence that they intended to change their domicile.

CONCLUSIONS OF LAW

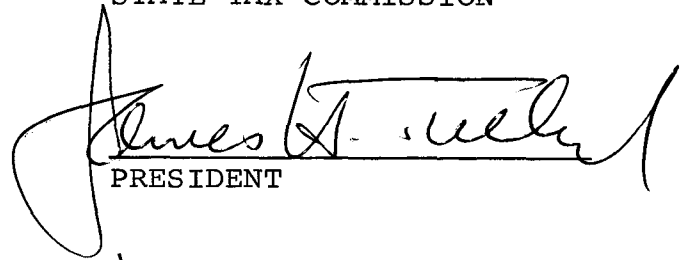
A. That petitioners, Niels DeGroot and Barbara J. DeGroot, were domiciled in New York during the year 1972 and at no time did they effect a change of domicile. Therefore, since petitioners were domiciliaries of New York State during said year and spent more than thirty days in New York State, they were subject to New York personal income tax as resident individuals on all their income for the entire year, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

B. That since petitioner, Niels DeGroot, had no regular place of business outside of New York State during 1971 and 1972, all the income attributable to his unincorporated business was allocable to New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

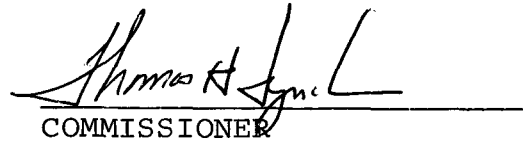
C. That the petitions of Niels DeGroot and Barbara J. DeGroot are denied and the notices of deficiency issued March 31, 1975 are sustained.

DATED: Albany, New York  
August 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER





STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

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JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

August 26, 1977

Niels De Groot and Barbara J. De Groot  
5 Cologne 1  
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Dear Mr. and Mrs. De Groot:

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Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Paul B. Coburn  
Supervising Tax  
Hearing Officer

cc: Petitioner's Representative  
Taxing Bureau's Representative

**Department of Taxation and Finance**  
**TAX APPEALS BUREAU**

ALBANY, N. Y. 12227

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☐ **Travel**

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Groot, and ~~Barbara~~ J. De Groot

Ohne genaue Wohnungsangabe,  
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STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petitions

of

NIELS DE GROOT and BARBARA J. DE GROOT

DECISION

for Redetermination of a Deficiency or  
for Refund of Personal Income and Unin-  
corporated Business Taxes under Articles  
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Petitioners, Niels DeGroot and Barbara J. DeGroot, 5 Cologne 1,  
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Petitioners appeared by Paul H. Zuckerman, Esq. The Income Tax  
Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of  
counsel).

ISSUES

I. Whether petitioner, Niels DeGroot, maintained a regular  
place of business outside of New York State during the years 1971  
and 1972.

II. Whether petitioners, Niels DeGroot and Barbara J. DeGroot, were resident individuals of New York State in 1972.

FINDINGS OF FACT

1. On March 31, 1975, the Income Tax Bureau issued a Statement of Audit Changes against, petitioner, Niels DeGroot, imposing additional unincorporated business tax due to the disallowance of an allocation of business income for the years 1971 and 1972. Accordingly, the Income Tax Bureau issued a Notice of Deficiency in the amount of \$6,440.54, plus interest of \$975.03, for a total of \$7,397.57.

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5. Petitioner, Niels DeGroot, did not offer documentary or other substantial evidence that his unincorporated business entity had a regular place of business outside of New York State in 1971 and 1972.

6. Petitioners, Niels DeGroot and Barbara J. DeGroot, did not offer documentary or other substantial evidence that they intended to change their domicile.

CONCLUSIONS OF LAW

A. That petitioners, Niels DeGroot and Barbara J. DeGroot, were domiciled in New York during the year 1972 and at no time did they effect a change of domicile. Therefore, since petitioners were domiciliaries of New York State during said year and spent more than thirty days in New York State, they were subject to New York personal income tax as resident individuals on all their income for the entire year, in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

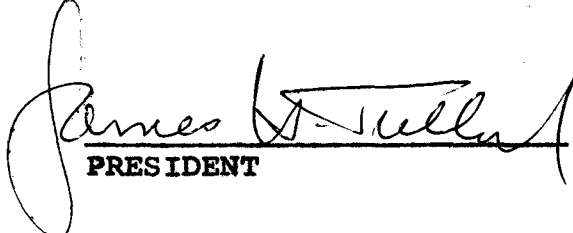
B. That since petitioner, Niels DeGroot, had no regular place of business outside of New York State during 1971 and 1972, all the income attributable to his unincorporated business was allocable to New York State in accordance with the meaning and intent of section 707(a) of the Tax Law.

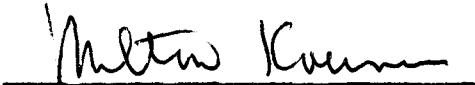
C. That the petitions of Niels DeGroot and Barbara J. DeGroot are denied and the notices of deficiency issued March 31, 1975 are sustained.

DATED: Albany, New York

August 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER