

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD & ELISE ZAZULA

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (22) of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1969 and 1970.

State of New York  
County of Albany

Bruce Batchelor, 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 26th day of April, 1977, ~~she~~ served the within  
Notice of Decision by (certified) mail upon Bernard & Elise Zazula

(~~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. Bernard Zazula  
128B Taylor Avenue  
East Brunswick, New Jersey 08816

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 April, 1977.

Bruce Batchelor

Janet Meech

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD & ELISE ZAZULA

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(s) ~~or Period(s)~~ :  
1969 and 1970.

State of New York  
County of Albany

Bruce Batchelor , 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 26th day of April , 1977, she served the within  
Notice of Decision by (certified) mail upon Isidore Feldman

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Isidore Feldman, CPA  
Isidore Feldman and Company  
1180 Avenue of the Americas  
New York, New York 10036

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 April , 1977.

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

April 26, 1977

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

Mr. & Mrs. Bernard Zazula  
128B Taylor Avenue  
East Brunswick, New Jersey 08816

Dear Mr. & Mrs. Zazula:

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

Please take further notice that pursuant to  
Section(2) **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**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition :  
of :  
BERNARD & ELISE ZAZULA :  
for Redetermination of Deficiency or : DECISION  
for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for :  
the Years 1969 and 1970. :  
:

---

Petitioners, Bernard and Elise Zazula, residing at 128B Taylor Avenue, East Brunswick, New Jersey 08816, have filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1969 and 1970. (File No. 0-69268651).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 18, 1976, at 9:15 A.M. Petitioner, Bernard Zazula, appeared with his representative, Isidore Feldman, C.P.A. The Income Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Were the petitioners, Bernard and Elise Zazula, New York State domiciliaries for the years 1969 and 1970?

FINDINGS OF FACT

1. Petitioners, Bernard and Elise Zazula, filed a New York State combined income tax resident return for 1969. On this return they indicated that they were residents of New York State from January 1, 1969 to November 2, 1969. For the taxable year 1970, petitioners filed a New York State income tax non-resident return.

2. On April 13, 1973, the Income Tax Bureau issued separate notices of deficiency against the petitioners, Bernard and Elise Zazula, in the amounts of \$777.32 and \$62.66 for the years 1969 and 1970, respectively. The Income Tax Bureau contended that petitioners were full-year residents of New York State for the taxable years 1969 and 1970 and that they were taxable on the same income as reported on their Federal tax return.

3. Petitioner, Bernard Zazula, a domiciliary of New York State, entered military service in September, 1968. Shortly after his induction, he went to Vietnam for a one-year tour of duty, returning to the United States in November, 1969. While in Vietnam his wife remained in New York and upon his return in November, 1969, petitioners moved to New Jersey. This New Jersey address was temporary since the petitioners planned to go to Israel after completion of his military obligation.

4. While petitioner, Bernard Zazula, a physician, was in Vietnam he sent employment applications to hospitals located in Israel and upon completion of his military obligation in September, 1970, petitioners, Bernard and Elise Zazula, moved to Israel. Petitioners subsequently returned to the United States in September, 1973.

5. Petitioners, Bernard and Elise Zazula, did not surrender their United States citizenship nor did they become citizens of Israel.

#### CONCLUSIONS OF LAW

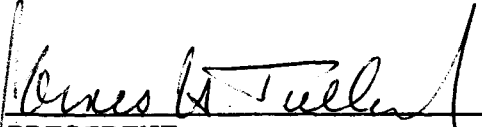
A. That neither the petitioners' move to New Jersey in November, 1969, which was a temporary move, nor their subsequent move to Israel in September, 1970 show the intent necessary to establish a new domicile. Section 102.2(d)(3) NYCRR states in part that "...a United States citizen will not ordinarily be deemed to have changed his domicile by going to a foreign country unless it is clearly shown that he intends to remain there permanently."

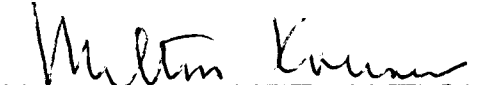
B. That the petitioners, Bernard and Elise Zazula, did not change their domicile during 1969 and 1970 and; therefore, are held to be New York State residents within the meaning and intent of section 605(a) of the Tax Law for the entire year and are taxable on the same income as reported on their Federal income tax returns.

C. That the petition of Bernard and Elise Zazula is denied and the notices of deficiency issued April 13, 1973 are sustained.

DATED: Albany, New York  
April 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BERNARD & ELISE ZAZULA

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)~~  
1969 and 1970.

State of New York  
County of Albany

Bruce Batchelor, 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 12th day of May, 1977, she served the within  
Notice of Decision by (certified) mail upon Bernard & Elise Zazula

(~~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. Bernard Zazula  
104-20 Queens Boulevard  
Forest Hills, NY

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

12th day of May, 1977.

Bruce Batchelor

Janet Mack

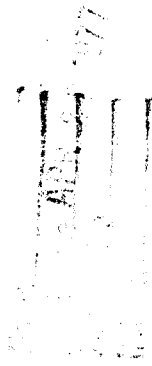
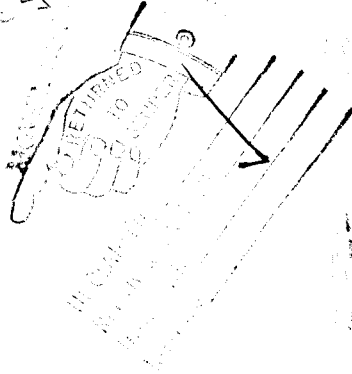


TA-26 (4-76) 25M **SMALL CLAIMS**  
**STATE OF NEW YORK**

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

STATE CAMPUS

ALBANY, N. Y. 12227



Mr. & Mrs. Bernard Zazula  
128B Taylor Avenue  
East Brunswick, New Jersey 08816

