

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD and JEAN BOUDIN

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)~~ :
1970 and 1971.

State of New York
County of Albany

John Huhn , 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 17th day of February , 1978, ~~she~~ served the within
Notice of Decision by (certified) mail upon Leonard & Jean Boudin

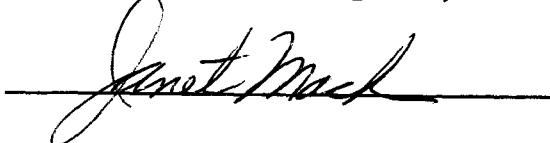
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Leonard Boudin
12 1/2 St. Luke's Place
New York, New York 10014

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

17th day of February , 1978





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD and JEAN BOUDIN

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) 22 of the :
Tax Law for the Year(s) ~~1970 and 1971~~ :
1970 and 1971.

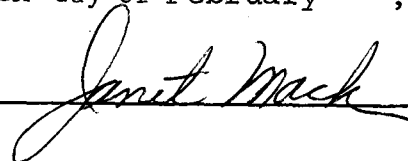
State of New York
County of Albany

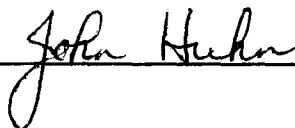
John Huhn, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 17th day of February, 1978, he served the within
Notice of Decision by (certified) mail upon Norman Parker
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Norman Parker, CPA
711 5th Avenue
New York, New York 10022
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

17th day of February, 1978.







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

February 17, 1978

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

**Mr. & Mrs. Leonard Boudin
12 1/2 St. Luke's Place
New York, New York 10014**


Dear Mr. & Mrs. Boudin:

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 **690** 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,


**Joseph Chrygwy
Hearing Examiner**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

LEONARD and JEAN BOUDIN

DECISION

for Redetermination of a Deficiency or
for Refund of Personal Income Tax under
Article 22 of the Tax Law for the Years
1970 and 1971.

Petitioners, Leonard and Jean Boudin, residing at 12 1/2
St. Luke's Place, New York, New York 10014, filed a petition for
redetermination of a deficiency or for refund of personal income
tax under Article 22 of the Tax Law for the years 1970 and 1971
(File No. 13085).

A small claims hearing was held before Joseph A. Milack, Hearing
Officer, at the offices of the State Tax Commission, Two World Trade
Center, New York, New York, on January 24, 1977 at 2:45 P.M. The
petitioner appeared pro se and for his wife, petitioner Jean Boudin,
and by Norman Parker, CPA. The Income Tax Bureau appeared by
Peter Crotty, Esq. (William Fox, Esq., of counsel).

ISSUE

Whether the petitioners changed their domicile from New York State to Massachusetts during the years 1970 and 1971.

FINDINGS OF FACT

1. Petitioners, Leonard and Jean Boudin, filed both resident and nonresident joint New York State income tax returns for the years 1970 and 1971. For 1970, they filed a New York State resident income tax return for the period January 1, 1970 through August 31, 1970, and a nonresident return for September 1, 1970 through December 31, 1970. For 1971, they filed a New York State nonresident income tax return for the period January 1, 1971 through November 29, 1971, as well as a New York State resident income tax return for the period November 30, 1971 to December 31, 1971.

2. On July 30, 1973, the Income Tax Bureau issued a Notice of Deficiency for the years 1970 and 1971 against petitioners, Leonard and Jean Boudin, based on a Statement of Audit Changes. Said Statement held that they did not establish a domicile outside New York State and, therefore, they were considered to be residents of New York State for income tax purposes for the entire period.

7. Petitioners, Leonard and Jean Boudin, filed Commonwealth of Massachusetts resident income tax returns for said years.

CONCLUSIONS OF LAW

A. That although the petitioners, Leonard and Jean Boudin, physically moved to Massachusetts, they failed to show that they established a new domicile within the meaning and intent of section 605(a) of the Tax Law and 20 NYCRR 102.2(d)(2). Therefore, they were domiciled in New York State for the tax years 1970 and 1971.

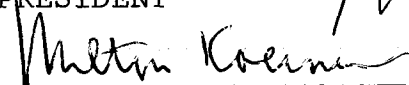
B. That petitioners, Leonard and Jean Boudin, being New York domiciliaries, maintained a permanent place of abode in New York State for part of 1970 and 1971 and spent more than thirty days in New York in each of said years. Therefore, petitioners were residents of New York State for income tax purposes in 1970 and 1971, within the meaning and intent of section 605(a) of the Tax Law.

C. That the petition of Leonard and Jean Boudin is denied and the Notice of Deficiency issued on July 30, 1973 in the sum of \$2,794.13 is sustained, together with such interest as may be lawfully owing.

DATED: Albany, New York
February 17, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER