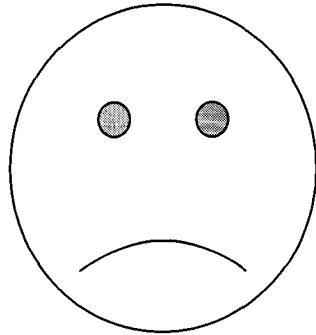


**CORRECTION
FOLLOWS**



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.

3. Petitioner Leonard Boudin testified that he and his wife were domiciled in New York prior to September 1, 1970. During 1970, he was offered and accepted a one-year teaching position at Harvard Law School in Cambridge, Massachusetts. On September 1, 1970, the petitioners left New York State and obtained a one-year lease on a home in Cambridge.

4. Petitioner Leonard Boudin did not continue teaching at Harvard Law School beyond the conclusion of the school year on July 1, 1971. On July 24, 1971, he applied for admission to the Bar of the Supreme Judicial Court of Massachusetts. Said petitioner contended that he made this application so that he might be able to establish an office and permanent residence in Massachusetts.

5. Petitioner Leonard Boudin contended that he returned to New York State during the year 1971 because of business circumstances alone, and that he kept his affiliation with Harvard Law School by lecturing on problems of constitutional and criminal law.

6. During the years in question, the petitioners continued to own the property in New York State which had been their residence. However, they contended that this property was held for rental purposes only. They also maintained New York State bank accounts during said years.

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.

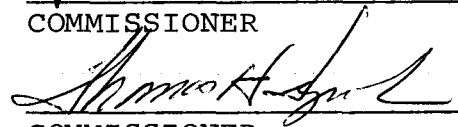
C. That the petition of Leonard and Jean Boudin is denied and the Notice of Deficiency issued on July 30, 1973 in the sum of \$2,794.13 is sustained, together with such interest as may be lawfully owing.

DATED: Albany, New York
February 17, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER