

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN C. EVANS AND VALERIE H. EVANS :

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

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 13 day of September , 1978, she served the within
Notice of Decision by (certified) mail upon John C. Evans
and Valerie H. Evans
(~~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. John C. Evans
P.O. Box 32
Fishers Island, NY 06390

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

13 day of September , 1978.

[Signature]

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN C. EVANS AND VALERIE H. EVANS :

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

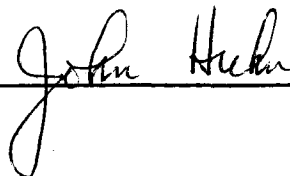
John Huhn , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 13 day of September , 1978, she served the within
Notice of Decision by (certified) mail upon William J. Brown
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: William J. Brown
c/o Arthur Young & Company
277 Park Ave.
New York, NY 10017
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

13 day of September , 1978







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

September 13, 1978

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

Mr. & Mrs. John C. Evans
P.O. Box 32
Fishers Island, NY 06390

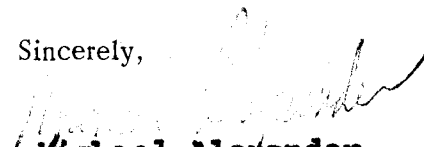
Dear Mr. & Mrs. Evans:

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** 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,


Michael Alexander
Supervising Tax
Hearing Officer

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :

of :

JOHN C. EVANS and VALERIE H. EVANS :

DECISION

for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under
Article 22 of the Tax Law for the Year 1973.:
:

Petitioners, John C. Evans and Valerie H. Evans, P.O. Box 32, Fishers Island, New York 06390, filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1973 (File No. 12041).

A formal hearing was held before George F. Murphy, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 9, 1977 at 10:15 A.M. Petitioners appeared by William J. Brown of Arthur Young & Company. The Income Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq., of counsel).

ISSUE

Whether petitioners were residents of New York State for all of 1973.

FINDINGS OF FACT

1. Petitioners, John C. Evans and Valerie H. Evans, filed a New York State tax return (forms IT-203, IT-201 and IT-220) for 1973.
2. On July 28, 1975 the Income Tax Bureau issued a Statement of Audit Changes for 1973 against petitioners, imposing an additional income tax due of \$2,761.92, plus interest. This was done on the grounds that petitioners were New York State residents for the entire year. In accordance with the aforesaid Statement of Audit Changes, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$3,028.09.

3. Petitioners herein were, from approximately 1968 until 1971, residents of New York State. Petitioner John C. Evans was employed by Morgan Stanley and Co., a New York banking firm. In 1971 he transferred to a subsidiary of the employer, namely, Morgan & Cie International S.A., a Parisian Banking firm, where he was the Managing Director. Petitioner's absence from New York and while they resided overseas, they owned a summer residence located on Fishers Island, New York. Petitioners had the said premises winterized during the early part of 1973. In September of 1973 for the start of the school year, petitioners relocated on Fishers Island, New York. At approximately the same time petitioner John C. Evans transferred back to Morgan Stanley & Co. in New York.

CONCLUSIONS OF LAW

A. That petitioners, John C. Evans and Valerie H. Evans, were domiciled in New York State during 1973.

B. That since petitioners were domiciliaries of New York State during 1973, and spent more than 30 days in New York State during said year they were, therefore, individuals in accordance with the meaning and intent of section 605 of the Tax Law.

C. That the petition of John C. Evans and Valerie H. Evans is denied and the Notice of Deficiency issued July 28, 1975 is sustained.

DATED: Albany, New York

September 13, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER