

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Ladislav & Liesel Farago :  
for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of :  
Personal Income Tax :  
under Article 22 of the Tax Law :  
for the Year 1967. :

AFFIDAVIT OF MAILING

State of New York  
County of Albany

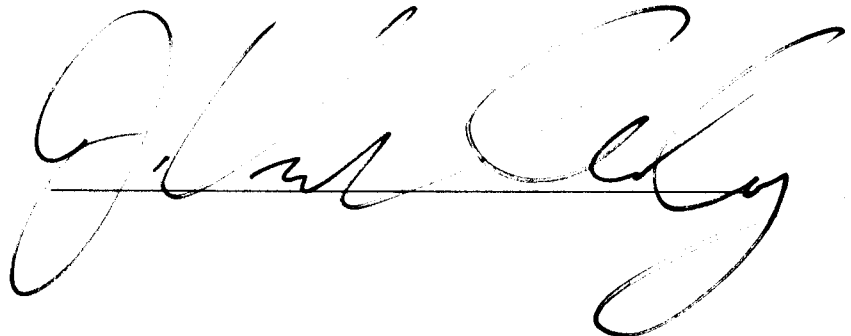
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 11th day of April, 1980, he served the within notice of Decision by certified mail upon Ladislav & Liesel Farago, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ladislav & Liesel Farago  
Skyline Ridge  
Bridgewater, CT 06752  
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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
11th day of April, 1980.

Janne Knapp



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Ladislav & Liesel Farago :

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County of Albany

Jay Vredenburg, 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 11th day of April, 1980, he served the within notice of Decision by certified mail upon Richard Feiman the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Richard Feiman  
Feiman, Gellerd, Feiman  
295 Madison 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  
11th day of April, 1980.

Joanne Knapp

[Signature]

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

April 11, 1980

Ladislav & Liesel Farago  
Skyline Ridge  
Bridgewater, CT 06752

Dear Mr. & Mrs. Farago:

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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Richard Feiman  
Feiman, Gellerd, Feiman  
295 Madison Ave.  
New York, NY 10017  
Taxing Bureau's Representative

## STATE TAX COMMISSION

A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 3, 1976. Petitioners appeared by Richard Feiman, CPA (Feiman, Geller & Feiman). The Income Tax Bureau appeared by Peter Crotty, Esq. (Paul Rosenkranz, Esq., of counsel).

## ISSUE

Whether petitioners were domiciliaries of New York State during 1967.

## FINDINGS OF FACT

1. Petitioners, Ladislav and Liesel Farago, failed to file a New York State personal income tax return for 1967.
2. On May 21, 1973, the Income Tax Bureau issued a Notice of Deficiency for 1967, asserting personal income tax of \$6,443.31, penalty, pursuant to 685(a) of the Tax Law, of \$1,610.83 and interest of \$1,971.52, for a total due

of \$10,025.66. Said notice was based on information obtained under the Federal/State match program, which showed petitioners' home address for the year at issue to be 1225 Park Avenue, New York, New York. The notice also showed petitioners' tax liability based, in part, on the allowance of the standard deduction and two exemptions.

3. Petitioners contended that they changed their domicile from New York State to the State of Connecticut in September of 1966.

4. Petitioners, prior to and during the year at issue and at least up until the hearing, continued to rent and occupy an apartment in New York City under a renewable three year lease. Said apartment contained furniture and a telephone. Petitioners' automobile was registered in New York.

5. Petitioner Ladislas Farago's home address, for the year at issue, was listed in Who's Who as being at 1225 Park Avenue, New York, New York.

6. Petitioner Liesel Farago was registered to vote in New York State.

7. The address submitted by the Internal Revenue Service to the Income Tax Bureau under the Federal/State match program did not agree with the address shown on the copy of petitioners' Federal income tax return which was submitted to the Income Tax Bureau, i.e., Merwin Brook Road, Brookfield Center, Connecticut. No evidence was adduced at the formal hearing to explain the discrepancy in addresses.

8. Petitioners' Federal income tax return for 1967 showed three exemptions and total itemized deductions of \$13,079.85.

#### CONCLUSIONS OF LAW

A. That petitioners, Ladislas and Liesel Farago, have failed to sustain the burden of proof required under section 689(e) of the Tax Law to show that they were not domiciled in New York State for the year 1967 in accordance with the meaning and intent of section 605(a) of the Tax Law; that they maintained

a permanent place of abode in New York State during 1967 and, therefore, they were resident individuals in accordance with the meaning and intent of section 605(a) (1) of the Tax Law and 20 NYCRR 102.2(b).

B. That the Audit Division is directed to modify the Notice of Deficiency issued May 21, 1973 by allowing petitioners three exemptions and itemized deductions.

C. That the petition of Ladislav and Liesel Farago is granted to the extent shown in Conclusion of Law "B" supra, and, except as so granted, is in all other respects denied; that the Notice of Deficiency as modified is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

APR 11 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER