

Love Rules in New York Tax Dispute

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Domicile is where the heart is, according to a New York Division of Tax Appeals ruling in a dispute between a former Colgate-Palmolive Co. executive and New York state's Division of Taxation.

The administrative law judge in [In the Matter of the Petition of Stephen C. Patrick](#) ruled in favor of the taxpayer, finding that the state erred when it determined Patrick was still domiciled in New York and was therefore deficient in the filing of his income taxes.

The ruling gave a detailed account of the relationship between Patrick and his second wife, Clara Scurati-Manzoni Patrick, including their high school romance and their separate lives before they met again some 40 years later. Patrick successfully persuaded the court that he changed his domicile to France from New York following his retirement from Colgate after rekindling his relationship with Scurati-Manzoni Patrick, leaving behind his large salary and executive lifestyle in favor of **spending time with his new wife.**

The state had charged Patrick, former CFO of consumer goods manufacturer Colgate-Palmolive, with owing close to \$2.2 million including interest and penalties, arguing that he was domiciled in New York in 2011 and 2012.

Patrick had an apartment in New York City during the years in question, which he acquired after his divorce in 2008. He also maintained an apartment in Paris, which he acquired in 2010 after he married his second wife.

For most his professional career Patrick worked at Colgate, becoming the company's CFO in 1996. He left that position 2010, and retired from the company on March 1, 2011, to spend more time with Scurati-Manzoni Patrick, who was living and domiciled in Paris at the time.

Despite moving to Paris a day after retiring, Patrick would make frequent trips back to New York, mainly for medical reasons, but on some occasions to attend the board meetings of Arrow Electronics Inc., where he had been a director since 2003 and was part of the board's audit committee. Patrick also traveled to other places in the U.S., including Colorado, where Arrow is headquartered, and Connecticut, where some of his children reside.

Because of the frequent trips back to the U.S., the tax division's **auditor concluded that Patrick spent 168 days in New York in 2011, and 183 days in 2012. Patrick disputed the claims, providing a timeline based on his itinerary and breaking down the days in fractions to distinguish between time spent in New York on leisure, as a medical patient, and in transit.**

The Question of Domicile

New York law states that to be considered a resident one either has to be domiciled in New York or be a statutory resident, meaning the taxpayer maintains a permanent abode in New York and spends more than 183 days in New York. However, when the tax division issued Patrick a notice of deficiency, it did not claim he was a resident but instead claimed he was domiciled in New York — a subjective test that weighs the taxpayer's intent. Patrick, through his testimony, showed that his domicile changed in March 2011. He pointed to the \$3.2 million home in Paris and his marriage to Scurati-Manzoni Patrick to show that his intent was to make Paris his permanent home.

Patrick also applied for the French equivalent of permanent residency called a "titre séjour" immediately after leaving New York in March 2011. His early retirement also meant Patrick would not receive a sizeable compensation package, a \$1.6 million retention bonus, and about \$1.4 million in performance-based stock. But perhaps most convincingly, Patrick was able to show that his rekindled relationship with Scurati-Manzoni Patrick, the woman he fell in love with **in 1965 and proposed to on the first day he saw her again over 40 years later, was the primary reason for the change in domicile. He told the judge that instead of living alone and working 12-hour days, he was traveling the world and doing the "things that he had never been able to do before retiring."**

Timothy Noonan, a partner at Hodgson Russ LLP, said the case illustrates the importance of Patrick's testimony. "A taxpayer's testimony in this type of case is paramount to determine intent," Noonan told Tax Analysts June 22.

Patrick was able to "turn the tables" **on what appeared to be a negative time factor to show that despite the amount of time he spent in New York, Paris remained his domicile after he moved there in March 2011, Noonan added.**

Kevin R. Law, the administrative law judge assigned to the case, sided with Patrick and ruled that his domicile changed to Paris on March 2, 2011. "The credible testimony of both petitioner and Clara clearly established petitioner's lifestyle changed," Law said, striking down the state's arguments that Patrick maintained business ties in New York following his retirement.

"First and foremost, petitioner retired early, forgoing a substantial amount of compensation so he could spend more time with Clara, and moved to Paris to be with her," Law concluded, citing Patrick's many vacations with Clara following his retirement to show he abandoned his stressful life as an executive in New York.