

Appeal of William L. & Jeanne A. Snider

The sole issue presented by this appeal is whether appellant William L. Snider remained a California **domiciliary** after he ceased to be a California resident in August 1975.

In 1975, Mr. Snider was an engineer employed by North American Rockwell. He made a verbal commitment to work for Rockwell in Iran for at least two years. At that time, Rockwell's contract in Iran ran less than two years, and Rockwell refused to make a commitment for appellant's employment there for a longer period.

Appellants sold their house in Cupertino in August 1975. Mr. Snider left for Iran in September, and his wife followed in December. At that time, they contemplated moving to Maryland whenever Mr. Snider's assignment in **Iran** ended. Appellants owned no personal dwelling in California from August 1975 through 1976. Appellants, however, retained ownership of three California rental properties throughout 1975 and 1976; those **properties** were managed for them in their absence. They were registered to vote in California and held valid California driver's licenses in **1975 but not in 1976**. In addition, appellants maintained both checking and savings accounts in California and **in Iran** in 1975 and 1976. Respondent has pointed out that appellants have not reported any permanent or **substantial connections** with Iran. Appellants counter that more permanent or substantial connections are not possible with a developing country.

Appellants and their children stayed in Iran until political turmoil, the murders of three Rockwell employees, and the uncertain future of Rockwell employment in Iran caused appellant to advise Rockwell he wished to leave Iran in December 1977. He was then employed by **Rockwell** in Anaheim from January **1978 until May 1980**, when he resigned from the company.

Respondent agrees that each **appellant ceased** to be a California resident upon leaving California for Iran. **But** California Civil Code, Section 5110, provides, in part: ". . . all personal property wherever situated-acquired **during** the marriage by a married person while domiciled in this state . . . is community property: . . ." So, if Mr. Snider remained a California domiciliary until Mrs. Snider left in December, the wages Mr. Snider earned in Iran from September through December constituted community property, one-half of which was income attributable

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to his wife and taxable under the California Personal Income Tax Law.

California Administrative Code, title 18, regulation 17014-17016(c) provides that a domicile

is the place in which a man has voluntarily fixed the habitation of himself and family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some unexpected event shall occur to induce him to adopt some other permanent home.

This intention is not to be determined simply from the party's general statements. Rather, the acts and declarations of the parties are to be taken into consideration. (Estate of Phillips, 269 Cal.App.2d 656 [75 Cal.Rptr. 301] (1969); Appeal of Robert M. and Mildred Scott, Cal. St. Bd. of Equal., March 2, 1981.)

A person can only have one domicile at a time. For a person to establish a domicile and so change his former domicile, he must take up actual, physical residence in a particular place with the intent to make that place his permanent abode. A union of act and intent is essential. Until such a union occurs, one retains his former domicile. One does not lose a former domicile by going to and stopping at another place for a limited time with no intention to make this his permanent abode. (Chapman v. Superior Court, 162 Cal.App.2d 421 [328 P.2d 231 (1958)], 16 Cal.Jur.2d (rev.) Domicile, §4, p. 764; 12 Cal.Jur.3d, Conflict of Laws, Summary, p. 506.) The burden of proving the acquisition of a new domicile is on the person asserting that domicile has been changed. (Sheehan v. Scott, 145 Cal. 684 [79 P. 3501 (1905).])

So viewed, appellants have not met their burden of proof. Appellants went to Iran because Mr. Snider's employer sent him to work there for a two-year period. Appellants intended to leave Iran when that period was over, and they contemplated going then to Maryland. Those facts do not demonstrate a union of act and intent to establish a permanent abode in either Iran or Maryland.

In conclusion, appellants have not demonstrated that they ever intended to make Iran their permanent abode. Furthermore, appellants cannot claim Maryland as their domicile since they never resided there. Accordingly, respondent's action must be sustained.

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O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of William L. and Jeanne A. Snider for refund of personal income tax in the amount of \$295.82 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 3rd day of January, 1983, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett....., Chairman
-Ernest J. Dronenburg, Jr.- : , Member
Richard Nevins... , Member
....., Member
....., Member