

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

FILED

ROBERT D. TIMM and  
PATRICIA D. TIMM

Petitioners

v.

DISTRICT OF COLUMBIA

Respondent

Docket No. 2224

SEP 18 1974

Superior Court of the  
District of Columbia  
Tax Division

OPINION AND ORDER

Petitioners in the present case seek a tax refund.

The facts are not in dispute and, therefore, the case was presented on oral argument.

It appears that the petitioner was appointed as a member of the Civil Aeronautics Board by the President of the United States and that he took office on January 11, 1971, for a term of six years. It is uncontested that petitioner is from the State of Washington and claims that as his domicile. Since appointment by the President, petitioner has resided in the District of Columbia.

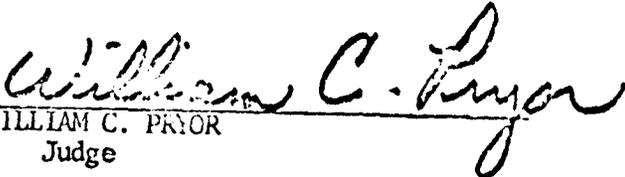
In essence, petitioner contends that his permanent place of residence and his domicile is his home state and that he resides in the District of Columbia only for the purposes of employment and that he serves at the pleasure of the President.

In viewing these contentions, it is clear that the pertinent section of the D. C. Code is directed at residence without regard to the domicile of the taxpayer. There is no argument nor case decision which shows this statute to be invalid or unconstitutional.

Additionally, it is evident on the record that petitioner cannot be removed from his job solely at the pleasure of the President; rather it must be alleged and proven that he is either inefficient, negligent or guilty of malfeasance. Thus, there must be some cause shown to discharge him. It is,

therefore, concluded that petitioner falls within the scope of the District of Columbia Taxing Authority and he is not entitled to the refund which he seeks.

WHEREFORE, it is ORDERED that the trial finding and judgment be in favor of the respondent and that the refund be denied.

  
WILLIAM C. PRYOR  
Judge

Dated: September 18, 1974

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