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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

A. PAUL HACZELA & CORNELIA HACZELA

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1968

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 21st day of February , 19 74, she served the within Notice of Decision (or Determination) by (certified) mail upon Louis Rosenstein, C.P.A. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

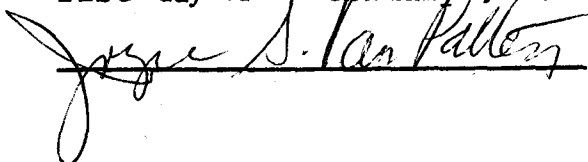
wrapper addressed as follows: Louis Rosenstein, C.P.A.
98 Cutter Mill Road
Great Neck, New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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

21st day of February, 1974.



Joseph S. Van Patten



Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
A. PAUL HACZELA and
CORNELIA HACZELA
For a Redetermination of a Deficiency or
a Refund of Personal Income
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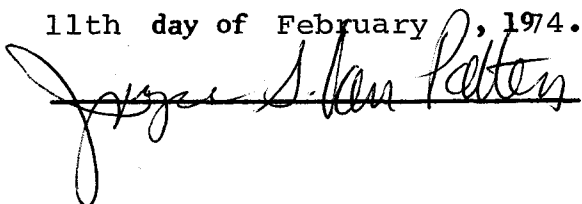
State of New York
County of Albany

MARTHA FUNARO, 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 11th day of February, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon A. PAUL HACZELA and CORNELIA HACZELA (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. A. Paul Haczela
Sunset Trail, Candlewood Isle
New Fairfield, Connecticut
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) 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 February, 1974.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

A. PAUL HACZELA and
CORNELIA HACZELA

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1968.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

MARTHA FUNARO

, 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 11th day of February, 1974, she served the within

Notice of Decision (or Determination) by (certified) mail upon LOUIS ROSENSTEIN, C.P.A.

(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Louis Rosenstein, C.P.A.
55 West 42nd Street
New York, New York 10036

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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 February, 1974.

Joseph S. Van Katten

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 11, 1974

Mr. and Mrs. A. Paul Haczela
Sunset Trail, Candlewood Isle
New Fairfield, Connecticut

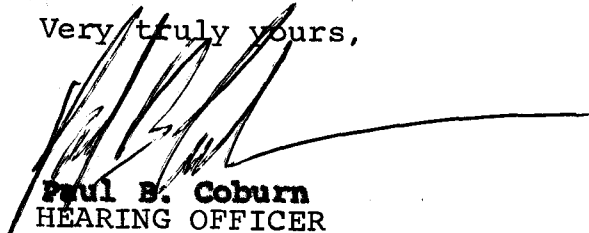
Dear Mr. and Mrs. Haczela:

Please take notice of the **DECISION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,



Paul B. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions :
of :
A. PAUL HACZELA and :
CORNELIA HACZELA : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1968. :

Petitioners, A. Paul Haczela and Cornelia Haczela, have filed petitions for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1968. (File No. 8-29181110.) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 18, 1973, at 1:15 P.M. Petitioners appeared by Louis Rosenstein, C.P.A. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were petitioners, A. Paul Haczela and Cornelia Haczela, resident individuals of New York State during the year 1968?

FINDINGS OF FACT

1. Petitioners, A. Paul Haczela and Cornelia Haczela, filed a New York State combined nonresident income tax return for the year 1968. They omitted from New York income \$7,612.00 in joint dividends and \$7,072.00 in joint interest which had been reported for Federal income tax purposes.

2. On May 22, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, A. Paul Haczela, imposing additional personal income tax for the year 1968 in the sum of \$856.38 by including as New York income one-half of the joint interest and dividends received by petitioners, upon the grounds that he was a domiciliary and resident of New York State during said year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,015.80.

3. On May 22, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Cornelia Haczela, imposing additional personal income tax for the year 1968 in the sum of \$351.78 by including as New York income one-half of the joint interest and dividends received by petitioners, upon the grounds that she was a domiciliary and resident of New York State during said year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$417.26.

4. Petitioners, A. Paul Haczela and Cornelia Haczela, owned a home located at 1 Woodlands Road, Scarsdale, New York, for many years prior to 1968. By virtue of a deed dated January 28, 1968, and recorded December 16, 1968, they transferred title to said premises to their married daughter, Patricia Roeben, who executed an \$18,000.00 purchase money mortgage in consideration therefore.

5. Petitioners, A. Paul Haczela and Cornelia Haczela, have owned a home at Candlewood Lake, Connecticut, since 1951. This

is a four bedroom all-year-round type home. This home was located in a resort area and was used by them primarily as a summer and vacation home.

6. In January 1968, petitioner, A. Paul Haczela, leased a four-room apartment in a residential apartment complex located at 53-M Rockledge Road, Hartsdale, New York. He initially requested that the lease be issued in the name of a corporation he had an interest in, but the landlord refused such a lease since the neighborhood was zoned residential. The apartment was decorated for both residential and business purposes. The phone in the apartment was listed in the corporation's name. The apartment was used by petitioners, in part, for residential purposes.

7. Petitioner, A. Paul Haczela, was a member of the Candlewood Isle Association in Connecticut and the New York Athletic Club in New York City during the year 1968.

8. Petitioners, A. Paul Haczela and Cornelia Haczela, executed their wills in New York State prior to 1968. They did not execute new wills in Connecticut. They were advised by their Connecticut attorneys that the aforesaid wills would be admissible to probate in Connecticut.

9. Petitioner, A. Paul Haczela's business activities had always been in New York State and continued to be in New York State during the year 1968, although he was semi-retired. He continued to maintain his bank accounts in New York State during said year.

10. Petitioner, A. Paul Haczela, never voted in New York State or in Connecticut. He did not own an automobile during

the year 1968. He maintained a New York drivers license during said year.

11. Petitioner, A. Paul Haczela, spent 137 days in New York State during the year 1968. Petitioner, Cornelia Haczela, spent in excess of 30 days in New York State during said year.

CONCLUSIONS OF LAW

A. That petitioners, A. Paul Haczela and Cornelia Haczela, were domiciled in New York State during the year 1968. They did not change their domicile from New York State to Connecticut during said year.

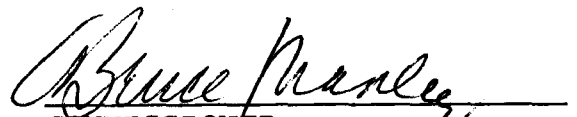
B. That since petitioners, A. Paul Haczela and Cornelia Haczela, were domiciliaries of New York State during the entire year of 1968 and since they spent more than 30 days in and maintained a permanent place of abode in New York State during said year, therefore, all of their income, including income from interest and dividends, was subject to New York State personal income tax as income of resident individuals in accordance with the meaning and intent of section 605(a)(1) of the Tax Law and 20 NYCRR 102.2.

C. That the petitions of A. Paul Haczela and Cornelia Haczela are denied and the notices of deficiency issued May 22, 1972, are sustained.

DATED: Albany, New York
February 11, 1974

STATE TAX COMMISSION


COMMISSIONER

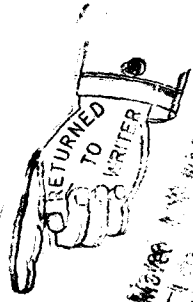
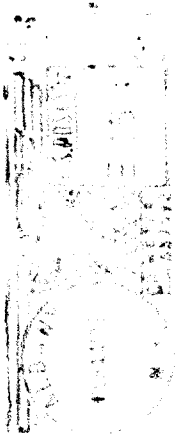

COMMISSIONER


COMMISSIONER

AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227



Meter No. 100
 Registered Mail
 Registered Mail
NEW YORK, N. Y. 10006

Louis Rosenstein, C.P.A.

55 West 42nd Street

New York, New York 10036

157

98 CUTLER MILL ROAD
GREAT NECKS, NEW YORK

CERTIFIED
No. 254083
MAIL



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Mario A. Procaccino
~~XXXXXXXXXXXX~~ PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 11, 1974

Mr. and Mrs. A. Paul Haczela
Sunset Trail, Candlewood Isle
New Fairfield, Connecticut

Dear Mr. and Mrs. Haczela:

Please take notice of the DECISION
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) 690 of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within 4 months
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

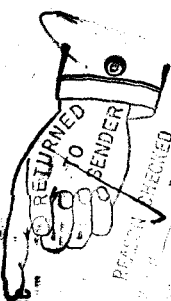
Paul B. Coburn
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12227



RECEIVED CHECKED
Unpaid _____ Refused _____
Address unknown _____
No such address _____
No such street _____
Do not return in state _____
Do not return in this envelope _____

Handwritten: 2/16/69



Mr. and Mrs. A. Paul Haczela
Sunset Trail, Candlewood Isle
New Fairfield, Connecticut

CERTIFIED
No. 254082
MAIL

Handwritten: DR Rook

Handwritten: 123 Hudson St. New Fairfield, N.Y.

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions :
of :
A. PAUL HACZELA and :
CORNELIA HACZELA : DECISION
for Redetermination of Deficiency or :
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under Article 22 of the Tax Law for :
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CONCLUSIONS OF LAW

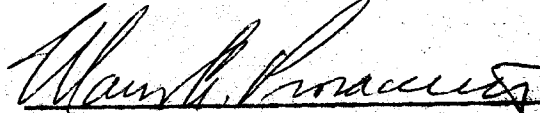
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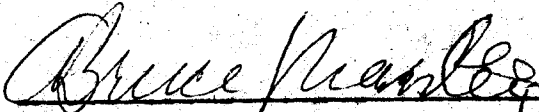
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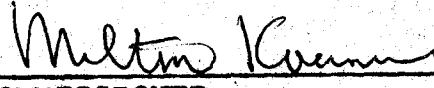
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DATED: Albany, New York
February 11, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER