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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FRED L. AND MICHELINE SEGAL

For a Redetermination of a Deficiency or  
a Refund of **Personal Income**  
Taxes under Article ~~(3)~~ 22 of the  
Tax Law for the Year ~~(3)~~ 1965

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

State of New York  
County of Albany

Janet Mack , 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 17th day of October , 1974, she served the within  
Notice of Decision (or Determination) by ~~(certified)~~ mail upon Fred L. and  
Micheline Segal ~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. & Mrs. Fred L. Segal  
Rua Umberto I, No. 941  
Sao Paulo, Brazil

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)~~  
~~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

17th day of October , 1974

Janet Mack

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FRED L. and MICHELINE SEGAL

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article (x) 22 of the  
Tax Law for the Year (x) 1965

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

State of New York  
County of Albany

Janet Mack, 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 17th day of October , 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Bernard Gross,  
Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Bernard Gross, Esq.

277 Broadway  
New York, New York 10007

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

17th day of October , 1974.

Martha J. Sunaro

Janet Mack



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

~~STATE TAX COMMISSION~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**October 17, 1974**

**Mr. & Mrs. Fred L. Segal**  
**Rua Umberto I, No. 941**  
**Sao Paulo, Brazil**

**Dear Mr. & Mrs. Segal:**

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

Please take further notice that pursuant to  
Section (a) **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,

**L. Robert Leisner**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
FRED L. SEGAL and MICHELINE SEGAL	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Year 1965.	:	

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Petitioners, Fred L. Segal and Micheline Segal, have filed a petition for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1965. (File No. 49266120.)

A formal hearing was held before L. Robert Leisner, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 11, 1973, at 9:30 A.M. Petitioners appeared by Bernard Gross, Esq. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Were petitioners, Fred L. Segal and Micheline Segal, residents of New York State during the year 1965?

FINDINGS OF FACT

1. Petitioners, Fred L. Segal and Micheline Segal, filed a New York State income tax resident return for the period January 1 to June 5, 1965.

2. On February 19, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Fred L. Segal and Micheline Segal, imposing additional personal income tax upon them for the year 1965, upon the grounds that they were residents of New York State for the whole of said year. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$1,409.47.

3. Petitioner, Fred L. Segal, was born in Italy and became a naturalized citizen of the United States in 1955. In that year, he became employed by Distilleria Stock U.S.A. Limited, a company engaged in the importation of liquor from Italy, located in Woodside, New York. In 1955, Distilleria Stock U.S.A. Limited acquired an interest in a Brazilian company and directed petitioner to move to Brazil to manage the Brazilian company. At the time, petitioner lived with his wife and child at 6 Peter Cooper Road, New York, New York. The four-room apartment was rented under a three-year lease.

4. Petitioner, Fred L. Segal, left New York State for Brazil on June 5, 1965. He entered Brazil on a permanent residence visa, (No. 869) which had been issued to him by the Consulate General of Brazil in New York on May 4, 1965. Initially, petitioner lived in a hotel. On July 6, 1965, he was issued a permanent resident's identification card (No. 665929) by the Brazilian authorities and later in the month rented a furnished apartment. On November 29, 1965, he moved into a furnished house.

5. At the time of petitioner, Fred L. Segal's move to Brazil, his wife was pregnant with their second child. She had had her first child by cesarean section, and consequently, her doctor advised that she should not accompany her husband to Brazil and suggested that the birth of her second child take place in New York under his supervision. Mrs. Segal remained in New York and gave birth to her second child on December 10, 1965. From the time that her husband left New York in June of 1965 until February 15, 1966, when he returned to New York to take his family with him to Brazil, Mrs. Segal continued to stay in the New York apartment.

6. After petitioner, Fred L. Segal, moved to Brazil in June of 1965, he returned to New York on several occasions during the remainder of the year: from August 18 to August 25, for a summer vacation, from October 16 to October 26, for his child's birthday, from December 9 to December 14 for the birth of his second child, and from December 24 to January 10, 1966, for the Christmas holiday.

7. After petitioner, Fred L. Segal, brought his family to Brazil, where they stayed for nine years, he continued to return to New York on business trips when he would stay in a local hotel or with friends. He also returned with his family each summer for a vacation on Fire Island. Initially, they stayed with friends who owned a home. In the summer of 1968, they acquired their own summer house on the island.

CONCLUSIONS OF LAW

A. Under section 605 of the Tax Law, a resident individual means an individual who is domiciled in this State, unless he maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and spends in the aggregate not more than thirty days of the taxable year in this State. Since petitioner, Fred L. Segal, maintained a permanent place of abode in New York during the entire year of 1965 and spent more than thirty days in the State during said year, he was a resident for said year, and his entire income for said year was subject to the personal income tax.

B. That the petition of Fred L. Segal and Micheline Segal is denied and the Notice of Deficiency issued February 19, 1968, is sustained.

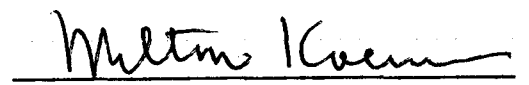
C. That pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York  
October 17, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER