

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

LEO S. MARTINUZZI, JR. &

HELEN G. MARTINUZZI

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income

Taxes under Article 22 of the  
Tax Law for the Year ~~(or) Period~~  
1968

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that

he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 14th day of April, 1977, he served the within

Notice of Decision by (certified) mail upon Leo S. Martinuzzi, Jr. &

Helen G. Martinuzzi ~~(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. Leo S. Martinuzzi, Jr.  
93 Elm Road  
Princeton, New Jersey

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 Postal Service within the State of New York.

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

14th day of April, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

LEO S. MARTINUZZI, JR. &

HELEN G. MARTINUZZI

For a Redetermination of a Deficiency or  
a Revision of a Determination or a Refund  
of Personal Income

Taxes under Article ~~65~~ 22 of the  
Tax Law for the Year ~~(or Period)~~  
1968

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor

, 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 14th day of April , 1977 , she served the within

Notice of Decision by (certified) mail upon Victor F. Keen, Esq.

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. Victor F. Keen, Esq.  
Milbank, Tweed, Hadley & McCloy  
1 Chase Manhattan Plaza  
New York, New York 10005

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 Postal Service 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

14th day of April , 1977

Bruce Batchelor

Janet Mach



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

April 14, 1977

ADDRESS YOUR REPLY TO

TELEPHONE: (518) **457-1723**

Mr. and Mrs. Leo S. Martinuzzi, Jr.,  
93 Elm Road  
Princeton, New Jersey

Dear Mr. & Mrs. Martinuzzi:

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

Please take further notice that pursuant to  
Section ~~47~~ **590** 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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

*[Signature]*  
**Paul E. Coburn**  
**Supervising Tax**  
**Hearing Officer**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
LEO S. MARTINUZZI, JR. & : DECISION  
HELEN G. MARTINUZZI :  
for Redetermination of a Deficiency or :  
for Refund of Personal Income Taxes under :  
Article 22 of the Tax Law for the Year :  
1968. :

Petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi,  
93 Elm Road, Princeton, New Jersey, filed a petition for redetermination  
of a deficiency or for refund of personal income taxes under Article  
22 of the Tax Law for the year 1968. (File No. 001228).

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 11, 1976, at 2:45 P.M. Petitioners appeared by Victor F. Keen, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Solomon Seis, Esq. of counsel)

## ISSUE

Whether petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi, were residents of New York State, within the meaning and intent of section 605 of the Tax Law, during the period January 1, 1968 to October 8, 1968.

FINDINGS OF FACT

1. Petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi, filed a New York State nonresident income tax return for the year 1968.

2. On July 26, 1971, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Leo S. Martinuzzi, Jr., and Helen G. Martinuzzi, for the year 1968, upon the grounds that there was no recognized change of domicile until October 7, 1968 and therefore, petitioners were residents of New York State until October 7, 1968. Accordingly, a Notice of Deficiency was issued in the sum of \$3,763.96, plus interest of \$514.91, for a total due of \$4,278.87.

3. In 1961, petitioners, Leo S. Martinuzzi, Jr., was employed by the Chase Manhattan Bank, New York, New York, as an Assistant Vice-President. Petitioners, Leo S. Martinuzzi, Jr., was assigned to the Tokyo, Japan branch of the Chase Manhattan Bank late in 1961. He arrived there to assume his duties on January 2, 1962.

4. Until his assignment to Tokyo, Japan, the petitioner Leo S. Martinuzzi, Jr., lived in his own residence in Garden City, New York. His wife, petitioner Helen G. Martinuzzi, remained in the Garden City, New York residence until October 1963, due to her own and her children's illness. In October 1963, petitioner, Helen G. Martinuzzi joined her husband, petitioner, Leo S. Martinuzzi, Jr., in Japan. The Garden City house was sold in 1964. The family, consisting of petitioners and their children, lived in Japan until October 1968.

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5. Petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi had no permanent place of abode in New York State during the period January 1, 1968 to October 8, 1968.

6. After October 8, 1968 the petitioners took up residence in New Jersey. Until that time, they had been domiciliaries of the State of New York.

7. The petitioners paid \$3,000.00 a year to Chase Manhattan Bank, for two homes which the petitioners lived in while in Japan. Chase Manhattan Bank owned these homes to assure employees that they would have western-style accommodations in Japan. This \$3,000.00 was deducted from an incentive allowance which Chase Manhattan Bank gave the petitioner Leo S. Martinuzzi, Jr., for overseas service.

8. Petitioner, Leo S. Martinuzzi, Jr., was assigned to Tokyo, Japan by Chase Manhattan Bank for an indefinite period of time.

9. The last house, in Japan in which the petitioners lived for the period in question, was split between Company needs and personal needs. The petitioners paid for personal service for the part of the home which they occupied, while the employer paid for services, such as maintenance and staff, for a part of the house used for functions on behalf of the Chase Manhattan Bank. This house constituted a permanent place of abode for the petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi.

10. Neither of the petitioners, Leo S. Martinuzzi, Jr., nor Helen G. Martinuzzi spent more than thirty days in New York State during the year 1968.

CONCLUSIONS OF LAW

A. That petitioners, Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi were not residents of New York State during the period January 1, 1968 to October 8, 1968 within the meaning and intent of section 605(a)(1) and 605(b) of the Tax Law, since they spent less than 30 days in New York State, did not maintain a permanent place of abode in New York State and maintained a permanent place of abode elsewhere.

B. That the petition of Leo S. Martinuzzi, Jr. and Helen G. Martinuzzi is granted and the Notice of Deficiency issued July 26, 1971 is cancelled.

DATED: Albany, New York  
April 14, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER