

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Martin J. Siegel :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Year 1972. :

State of New York

County of Albany

Jay Vredenburg, 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 15th day of February, 1980, he served the within notice of Decision by certified mail upon Martin J. Siegel, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

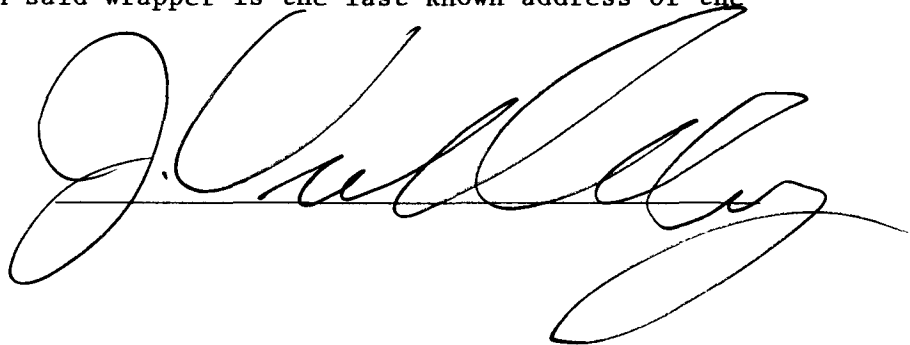
Martin J. Siegel
555 North Ave.
New York, NY 10021

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
15th day of February, 1980.

Joanne Knapp



STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

February 15, 1980

Martin J. Siegel
555 North Ave.
New York, NY 10021

Dear Mr. Siegel:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
MARTIN J. SIEGEL	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

Petitioner, Martin J. Siegel, 555 North Avenue, Fort Lee, New Jersey 07025, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972 (File No. 15390).

A small claims hearing was held before William Valcarcel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 9, 1979 at 1:15 P.M. Petitioner appeared pro se. The Audit Division appeared by Peter Crotty, Esq. (Samuel Freund, Esq., of counsel).

ISSUE

Whether petitioner, Martin J. Siegel, was a resident of New York State for the entire year 1972.

FINDINGS OF FACT

1. Petitioner, Martin J. Siegel, timely filed a New York State Income Tax Resident Return for 1972, on which he indicated that he was a resident of New York State from August 1, 1972 to December 31, 1972, but not a resident from January 1, 1972 to July 31, 1972.

2. On March 29, 1976, the Audit Division issued a Notice of Deficiency in the sum of \$1,380.34 for 1972, along with an explanatory Statement of Audit Changes, which stated:

"You are considered to be domiciled in New York State and, therefore, all income received for the year 1972 is taxable. Your total income has been adjusted in order to reflect a disallowance of business expenses by the Internal Revenue Service in the amount of \$1,881.00."

The federal audit adjustment of \$1,881.00 was conceded by petitioner and is not at issue.

3. Petitioner, Martin J. Siegel, resided with his parents in New York State, until he was inducted into active duty by the United States Military Service in March, 1967. Subsequently, he was stationed in Germany where he remained until discharged in April, 1969. Thereafter, he went to Israel and then to California (USA) for a vacation. In September, 1969, petitioner returned to New York State where he remained until he left for Austria at the end of 1970.

4. Thereafter, petitioner left Austria and moved to West Germany, where he obtained a work visa. In Germany, petitioner rented an apartment, purchased furniture and opened bank accounts. In addition, he purchased an automobile and obtained a German driver's license.

5. While in Germany, petitioner practiced law, which was limited to clientele who were U.S. military personnel and U.S. citizens employed in Germany for the United States government.

6. While in Germany, petitioner continued to maintain bank accounts in New York State. During the November elections of 1967 and 1970, petitioner voted in New York State by absentee ballot.

7. Petitioner, a United States citizen, had no intention of renouncing his citizenship during his stay in Germany.

8. Petitioner returned to New York State on August 1, 1972.

CONCLUSIONS OF LAW

A. That petitioner, Martin J. Siegel, was domiciled in, and a resident

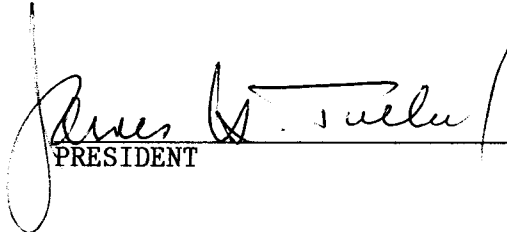
of New York State for 1972, in accordance with the meaning and intent of section 605 of the Tax Law and 20 NYCRR 102.2.

B. That the petition of Martin J. Siegel is denied and the Notice of Deficiency issued March 29, 1976 for 1972 is sustained together with such additional interest as may be lawfully owing.


DATED: Albany, New York

STATE TAX COMMISSION

FEB 15 1980


PRESIDENT

COMMISSIONER


COMMISSIONER