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STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM C. SEGAL

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) 1964 & 1965 :

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 26th day of July , 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon William C. Segal

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: William C. Segal  
South Road  
Chester, 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 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

26th day of July , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM C. SEGAL

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) 1964 & 1965 :

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
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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 26th day of July , 19 72, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Ian Laskowitz, 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: Ian Laskowitz, C.P.A.  
c/o Hertz, Herson & Company  
2 Park Avenue  
New York, New York 10016  
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

26th day of July , 1972.

Lynn Wilson

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

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 26, 1972

William C. Segal  
South Road  
Chester, New Jersey

Dear Mr. Segal:

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

Please take further notice that pursuant to  
Section(s) **689** 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,

**Nigel G. Wright**  
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	:	
WILLIAM C. SEGAL	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Years 1964 and 1965.	:	

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William C. Segal filed a petition for the redetermination of a deficiency in personal income tax for the years 1964 and 1965.

A hearing was held on October 14, 1971, at the offices of the State Tax Commission, 80 Centre Street, New York City before Nigel G. Wright, Hearing Officer.

Ian Laskowitz, C.P.A., of Hertz, Herson & Company represented petitioner. Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel) represented the Income Tax Bureau.

The record of such hearing has been duly examined and considered.

#### ISSUES

The issues in this case are the limitations period for assessment and the resident status of petitioner.

#### FINDINGS OF FACT

1. The petitioner and his wife were domiciliaries of Chester, New Jersey. They filed nonresident returns for the years in question.

2. The petitioner and his wife were both employed by Dane Publishing Company, Inc. whose principal office is at 24 East 38 Street, New York City and which publishes the trade journal "American Fabrics". The journal lists its publisher as Cora Carlisle, the maiden name of Mrs. Segal.

3. In addition to their salaries from Dane, petitioner and his wife had income from dividends and interest and from the business of fashion and merchandising consultant.

4. Mr. Segal held a lease to an apartment at 150 East 67th Street, New York City.

5. The deficiency in issue is dated May 20, 1968, and is in the amount of \$1,336.18 plus interest of \$248.29 for a total of \$1,584.47 for 1964 and \$1,109.22 plus interest of \$139.56 for a total of \$1,248.78 for 1965. These are based upon a finding that petitioner and his wife are residents of New York.

#### CONCLUSIONS OF LAW

A. The deficiency asserted for 1964 is clearly untimely. The deficiency notice is dated May 20, 1968, more than three years after the return was filed on April 15, 1965. In addition all income is disclosed on the return so the extended limitation period of section 683(d) of the Tax Law is not applicable.

B. The petitioner has not produced any evidence to rebut the presumption of validity of the deficiency for 1965.

While the petitioner's representative has argued that the 69th Street apartment was used for business purposes by Dane and not as a residence by the petitioner, there is no factual

foundation for such arguments in view of the fact that the petitioner did not appear or testify or offer any sort of documentary evidence. In addition it should be noted that there is no statement or evidence as to whether the petitioners consultant activities were carried on in New York or New Jersey. There is further no statement or evidence as to which of the petitioners received the dividend and interest income.

DECISION

The petition is granted with respect to 1964 and the deficiency for such year is cancelled.

The petition is denied with respect to 1965 and such deficiency is affirmed together with such interest, if any, as may be due under section 684 of the Tax Law.

DATED: Albany, New York  
*July 26, 1972*

STATE TAX COMMISSION

*Norman Goldman*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Mauley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Korman*  
\_\_\_\_\_  
COMMISSIONER