

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ARTHUR and ROSE ENTIS

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) 1963, 1964  
and 1965.

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

State of New York  
County of Albany

JOYCE S. VAN PATTEN, 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 5th day of April, 1974, she served the within  
Notice of Decision ~~(on Determination)~~ by (certified) mail upon Arthur and  
Rose Entis ~~(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. Arthur Entis  
19 Turtle Road  
Convent Station, 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

5th day of April, 1974

Martha Swann

Joyce S. Van Patten

STATE OF NEW YORK  
STATE TAX COMMISSION

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proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Emanuel Kuflik, Esq.  
116 John Street  
New York, New York 10038

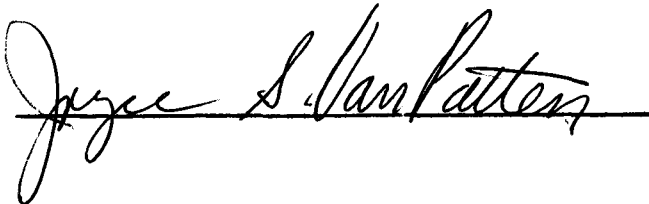
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the United States Post Office Department within the State of New York.

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  
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Sworn to before me this

5th day of April , 1974







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

~~Mario A. Procaccino~~  
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**April 5, 1974**

**Mr. & Mrs. Arthur Entis**  
**19 Turtle Road**  
**Convent Station, New Jersey 07961**

**Dear Mr. & Mrs. Entis:**

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

Please take further notice that pursuant to **section 690**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **four months** after  
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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

~~XXXXXXXXXXXX~~  
~~XXXXXXXXXXXX~~  
EDWARD ROOK

**SECRETARY TO THE  
STATE TAX COMMISSION**

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ARTHUR and ROSE ENTIS	:	
for Redetermination of Deficiency or for	:	DECISION
Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1963, 1964 and 1965.	:	

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Petitioners, Arthur and Rose Entis, petitioned for a redetermination of deficiencies in personal income taxes under Article 22 of the Tax Law for the years 1963, 1964 and 1965.

A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on April 12, 1973, before L. Robert Leisner, Hearing Officer. The taxpayers were represented by Emanuel Kuflik, and the Income Tax Bureau was represented by Saul Heckelman, Esq., (James Scott, Esq., of Counsel).

ISSUE

Can the nonresident taxpayer, Rose Entis, allocate her income for 1963, 1964 and 1965 based upon work performed in an office in her home in New Jersey?

FINDINGS OF FACT

1. Petitioner, Arthur and Rose Entis, timely filed New York State income tax returns for the years 1963, 1964 and 1965.
2. A Notice of Determination of deficiencies in personal income taxes for the years 1963, 1964 and 1965 was issued on April 10, 1968, against the taxpayers under File No. 49182435.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. During the years 1963, 1964 and 1965, the taxpayer, Rose Entis, was employed by Entis Food Products, Inc. of New York as a bookkeeper. The taxpayer performed her bookkeeping services in an office in her home in New Jersey and contended that she worked in New Jersey because of necessity.

5. The New Jersey office in the taxpayers' home was well lighted, heated and roomy. There was little space in the office available at the Entis place in New York and the office in New York was odoriferous with fish smells, cramped for space, cold, wet, damp and poorly lighted.

6. The mastheads on the firm's billings did list the New Jersey office as well as the New York location but gave no phone number for the New Jersey office.

7. The Income Tax Bureau contended that the use of the New Jersey home as an office was merely more convenient for the taxpayer and not compelled by the corporation or based upon necessity.

8. The franchise tax returns of the corporation claim no allocation of income attributed to sources in New Jersey. No proof was offered to show that the corporation maintained the office in Mrs. Entis' New Jersey home or that the corporation paid the expenses thereon. The corporation maintained no telephone at the New Jersey office. There is no evidence that workmen's compensation was paid by the firm in New Jersey for any New Jersey employees.

#### CONCLUSIONS OF LAW

A. There was no necessary ingredient required by the nature of the services performed by the taxpayer, Rose Entis, during the years in question, which necessitated the State of New Jersey or the office

in the home of the taxpayer as the locus of performance. Such services performed by Rose Entis at her home, were so performed for her greater convenience and the income was derived from New York sources in accordance with the provisions of section 632(b) of the Tax Law.

B. The petition is denied and the determination of the deficiency in income tax is sustained.

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

DATED: Albany, New York  
April 5, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER