

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES L. AND CATHERINE A. BERGMANN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1964 through 1967.

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 28th day of February , 1977, she served the within  
Notice of Decision by (certified) mail upon Charles L. and  
Catherine A. Bergmann ~~xxxxxx~~ ~~(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. Charles L. Bergmann  
80 Pine Street  
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)~~  
~~xxxxxx~~ petitioner herein and that the address set forth on said wrapper is the  
last known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

28th day of February , 1977.

Bruce Batchelor

Janet Mac

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN L. and MARION B. CULLEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article ~~(x)~~ 22 of the :  
Tax Law for the Year(s) ~~1964 through 1967~~ :  
1964 through 1967.

State of New York  
County of Albany

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she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 28th day of February , 1977, she served the within  
Notice of Decision by (certified) mail upon John L. and Marion B.  
Cullen (~~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. John L. Cullen  
c/o Shearson, Hammill & Co.  
14 Wall Street  
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~~  
~~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

28th day of February , 1977.

Bruce Batchelor

Just Back

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WALTER W. FRIEND, JR. & DORIS F. FRIEND

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (x) 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1964 through 1967.

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 28th day of February, 1977, she served the within

Notice of Decision by (certified) mail upon Walter W. Friend, Jr.  
and Doris F. Friend

~~(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. Walter W. Friend, Jr.  
80 Pine Street  
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  
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28th day of February, 1977.

Bruce Batchelor

Just Hand

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

CHARLES L. & CATHERINE A. BERGMANN, <sup>of</sup> : AFFIDAVIT OF MAILING  
JOHN L. & MARION B. CULLEN & WALTER W. JR. & DORIS F. FRIEND :

For a Redetermination of a Deficiency or :  
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Taxes under Article(s) 22 of the :  
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State of New York  
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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 28th day of February , 1977, she served the within  
Notice of Decision by (certified) mail upon Jack Wong, CPA  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Jack Wong, CPA  
Oppenheim, Appel, Dixon & Co.  
One New York Plaza  
New York, NY 10004  
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  
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last known address of the (representative of the) petitioner.

Sworn to before me this

28th day of February , 1977.

Bruce Batchelor

Just in



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

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

Mr. & Mrs. Charles L. Bergmann  
80 Pine Street  
New York, New York 10005

Dear Mr. & Mrs. Bergmann:

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

Please take further notice that pursuant to  
Section **(X) 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.

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,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

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

Mr. & Mrs. John L. Cullen  
c/o Shearson, Hammill & Co.  
14 Wall Street  
New York, New York 10005

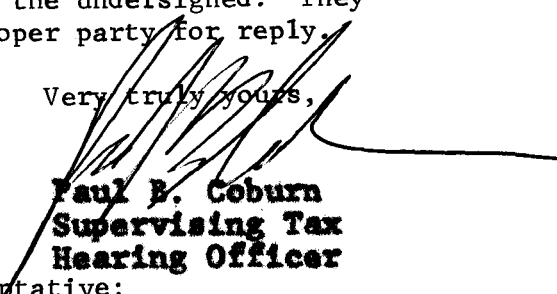
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Very truly yours,

  
Paul B. Coburn  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

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

Mr. & Mrs. Walter W. Friend, Jr.  
80 Pine Street  
New York, New York 10005

Dear Mr. & Mrs. Friend:

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

Please take further notice that pursuant to  
Section(**x**) **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.

Inquiries concerning the computation of tax  
due or refund allowed in accordance with this  
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Very truly yours,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

CHARLES L. and CATHERINE A. BERGMANN :

DECISION

for a Redetermination of a Deficiency :  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for the :  
Years 1964 through 1967. :

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In the Matter of the Petition :

of :

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DECISION

for a Redetermination of a Deficiency :  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for the :  
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In the Matter of the Petition :

of :

WALTER W. FRIEND, JR. and DORIS F. FRIEND :

DECISION

for a Redetermination of a Deficiency :  
or for Refund of Personal Income Tax :  
under Article 22 of the Tax Law for the :  
Years 1964 through 1967. :

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Charles L. and Catherine H. Bergmann, John L. and Marion B. Cullen and Walter W. Friend, Jr. and Doris F. Friend each filed a petition under section 689 of the Tax Law for the redetermination of separate deficiencies asserted against each for personal income tax under Article 22 of the Tax Law for the years 1964 through 1967.

The deficiency asserted against Mr. and Mrs. Bergmann was asserted by notice issued March 29, 1971, under File No. 7-73200154 and is in the amount of \$6,787.00 plus interest of \$1,508.56 for a total of \$8,295.56.

The deficiency asserted against Mr. and Mrs. Cullen was asserted by notice issued March 29, 1971, under File No. 7-730404132 and is in the amount of \$4,651.00 plus interest of \$1,079.95 for a total of \$5,726.95.

The deficiency against Mr. and Mrs. Friend was asserted by notice issued March 29, 1971, under File No. 73216691 and is in the amount of \$3,234.30 plus interest of \$678.93 for a total of \$3,913.23.

A hearing was duly held on November 20, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer.

The petitioners were represented by Jack Wong, C.P.A. of Oppenheim, Appel, Dixon & Co. The Income Tax Bureau was represented

by Saul Heckelman, Esq., appearing by Alexander Weiss, Esq. of counsel.

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

#### ISSUE

The issue in this case is whether certain sums received by petitioners who are nonresidents were salaries subject to allocation between states according to the place of performance of the work, as alleged by petitioners, or whether such salaries were first paid into a partnership so that the sums in question were distributions from a partnership subject to allocation only according to the books of the partnership, as alleged by the Income Tax Bureau.

#### FINDINGS OF FACT

1. Petitioners were all nonresidents of New York. Charles L. Bergmann, John L. Cullen and Walter W. Friend were each general partners of R.W. Pressprich & Co., a partnership engaged in business as a securities broker and dealer.

2. R.W. Pressprich & Co. did business both inside and outside of New York State. Each nonresident partner accordingly reported to New York only a portion of his distributable share of partnership income as being derived from New York sources.

3. Charles L. Bergmann, John L. Cullen and Walter W. Friend were officers and employees of a corporation, the R.W. Pressprich & Co., Inc., and as such received salaries from the corporation. These salaries were reported by petitioners on their tax returns as being only in part from New York sources.

4. Mr. Bergmann, Mr. Cullen and Mr. Friend were covered as employees for unemployment insurance and the salaries were subject to withholding for social security and income taxes.

5. The salaries here in question were not included in the income of the partnership for Federal income tax purposes.

6. The deficiency here in issue attributes the salaries to the partnership and thereby increases the distributable share of each partner. Such increased distributable share as allocated to New York by the partnership's allocation ratio results in increased income allocated to New York.

#### CONCLUSIONS OF LAW

The salaries here in question are not attributable to the partnership for purposes of the personal income tax.

The deficiency against petitioner, Mr. Bergmann, is recomputed to be \$4,421.00 plus interest to the date of the deficiency of \$1,025.76 for a total of \$5,446.76.

The deficiency against petitioner, Mr. Cullen, is recomputed

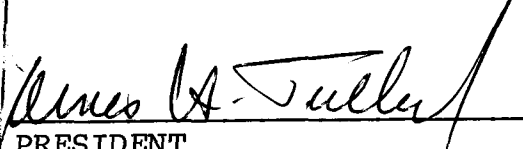
to be \$2,818.00 plus interest to the date of deficiency of \$659.76 for a total of \$3,477.76.

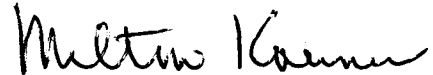
The deficiency against petitioner, Mr. Friend, is recomputed to be \$3,010.30 plus interest to the date of deficiency of \$707.56 for a total of \$3,717.86.

Such sums are due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York  
February 28, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

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Hearing Officer

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cc: Petitioner's Representative:

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STATE OF NEW YORK

STATE TAX COMMISSION

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for a Redetermination of a Deficiency :  
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4. Mr. Bergmann, Mr. Cullen and Mr. Friend were covered as employees for unemployment insurance and the salaries were subject to withholding for social security and income taxes.

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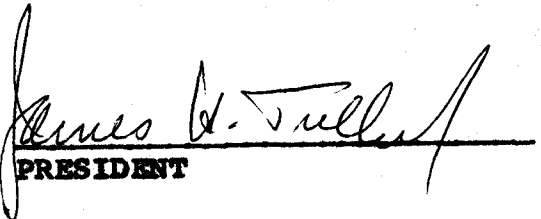
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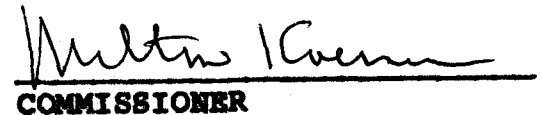
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DATED: Albany, New York  
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STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

# FORMAL HEARING

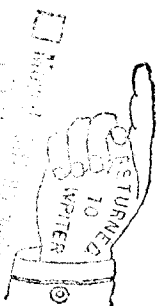
STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

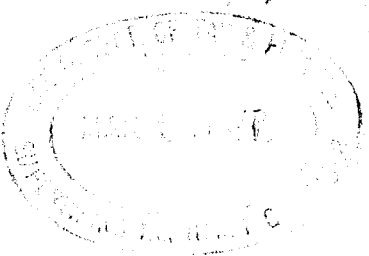
ALBANY, N. Y. 12227



☐ No such address  
☐ No such number  
☐ Indefinite  
NEW YORK, N.Y. 10005

*Albany*

Mr. & Mrs. Charles L. Bergmann  
80 Pine Street  
New York, New York 10005





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

TELEPHONE: (518) 457-1723

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Mr. & Mrs. Walter W. Friend, Jr.  
80 Pine Street  
New York, New York 10005

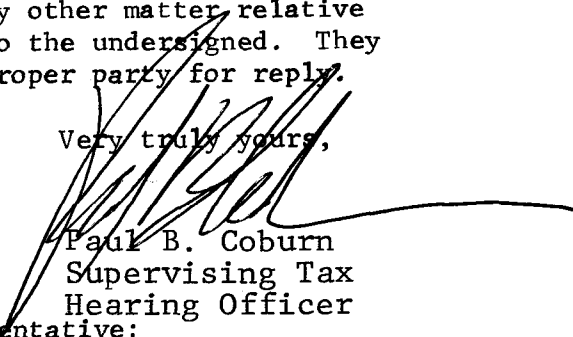
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STATE OF NEW YORK

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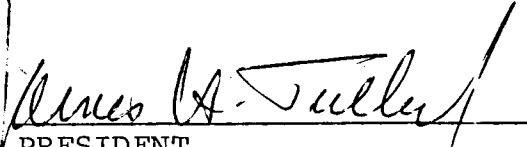
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DATED: Albany, New York

February 28, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

TA-26 (4-76) 25M

# FORMAL HEARING

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

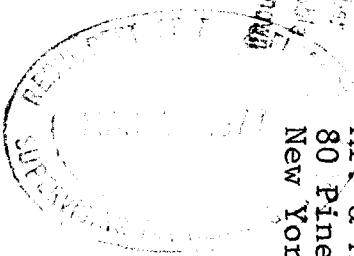
STATE CAMPUS

ALBANY, N. Y. 12227

NEW YORK, N.Y. 10005



Mr. & Mrs. Walter W. Friend, Jr.  
80 Pine Street  
New York, New York 10005



*Walter W. Friend, Jr.*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
CHARLES L. & CATHERINE A. BERGMANN, JOHN L.  
& MARION B. CULLEN & WALTER W. FRIEND, JR.  
& DORIS F. FRIEND

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~xxx~~ Period(s) :  
1964 through 1967.

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 18th day of March , 1977, she served the within  
Notice of Decision by (certified) mail upon John L. and Marion B.  
Cullen (~~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. John L. Cullen  
c/o Oppenheim & Co.  
1 New York Plaza  
New York, NY 10004  
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

18th day of March , 1977.

Bruce Batchelor

Janet Bush

TA-26 (4-76) 25M **FORMAL HEARING**

**STATE OF NEW YORK**

**Department of Taxation and Finance  
TAX APPEALS BUREAU**

**STATE CAMPUS**

**ALBANY, N. Y. 12227**



☐ RETURN TO WRITER  
☐ RETURN TO ADDRESSEE  
☐ RETURN TO ADDRESSEE  
☐ RETURN TO ADDRESSEE

*Not at*  
*Address given*  
*NEW YORK, N.Y. 10005*

*Mr. & Mrs. John L. Cullen*  
*14 West Street*  
*New York, New York 10005*

*14 West Street*

*New York, New York 10005*



*14 West Street*  
*New York, New York 10005*

**FORMAL HEARING**

TA-26 (4-76) 25M

**STATE OF NEW YORK**

Department of Taxation and Finance

**TAX APPEALS BUREAU**

STATE CAMPUS

ALBANY, N. Y. 12227

~~Mr. & Mrs. John L. Cullen  
c/o Oppenheim & Co.  
1 New York Plaza  
New York, NY 10004~~

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STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

TELEPHONE: (518) 457-1723

REMAILED: March 18, 1977

Mr. & Mrs. John L. Cullen  
c/o Shearson, Hammill & Co.  
14 Wall Street  
New York, New York 10005

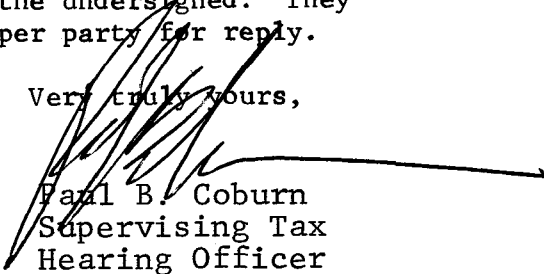
Dear Mr. & Mrs. Cullen:

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

Please take further notice that pursuant to  
Section(~~X~~) 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.

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,

  
Paul B. Coburn  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :

of :

CHARLES L. and CATHERINE A. BERGMANN :

DECISION

for a Redetermination of a Deficiency :

or for Refund of Personal Income Tax :

under Article 22 of the Tax Law for the :

Years 1964 through 1967. :

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In the Matter of the Petition :

of :

JOHN L. and MARION B. CULLEN :

DECISION

for a Redetermination of a Deficiency :

or for Refund of Personal Income Tax :

under Article 22 of the Tax Law for the :

Years 1964 through 1967. :

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In the Matter of the Petition :

of :

WALTER W. FRIEND, JR. and DORIS F. FRIEND :

DECISION

for a Redetermination of a Deficiency :

or for Refund of Personal Income Tax :

under Article 22 of the Tax Law for the :

Years 1964 through 1967. :

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Charles L. and Catherine H. Bergmann, John L. and Marion B. Cullen and Walter W. Friend, Jr. and Doris F. Friend each filed a petition under section 689 of the Tax Law for the redetermination of separate deficiencies asserted against each for personal income tax under Article 22 of the Tax Law for the years 1964 through 1967.

The deficiency asserted against Mr. and Mrs. Bergmann was asserted by notice issued March 29, 1971, under File No. 7-73200154 and is in the amount of \$6,787.00 plus interest of \$1,508.56 for a total of \$8,295.56.

The deficiency asserted against Mr. and Mrs. Cullen was asserted by notice issued March 29, 1971, under File No. 7-730404132 and is in the amount of \$4,651.00 plus interest of \$1,079.95 for a total of \$5,726.95.

The deficiency against Mr. and Mrs. Friend was asserted by notice issued March 29, 1971, under File No. 73216691 and is in the amount of \$3,234.30 plus interest of \$678.93 for a total of \$3,913.23.

A hearing was duly held on November 20, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer.

The petitioners were represented by Jack Wong, C.P.A. of Oppenheim, Appel, Dixon & Co. The Income Tax Bureau was represented



by Saul Heckelman, Esq., appearing by Alexander Weiss, Esq. of counsel.

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

#### ISSUE

The issue in this case is whether certain sums received by petitioners who are nonresidents were salaries subject to allocation between states according to the place of performance of the work, as alleged by petitioners, or whether such salaries were first paid into a partnership so that the sums in question were distributions from a partnership subject to allocation only according to the books of the partnership, as alleged by the Income Tax Bureau.

#### FINDINGS OF FACT

1. Petitioners were all nonresidents of New York. Charles L. Bergmann, John L. Cullen and Walter W. Friend were each general partners of R.W. Pressprich & Co., a partnership engaged in business as a securities broker and dealer.

2. R.W. Pressprich & Co. did business both inside and outside of New York State. Each nonresident partner accordingly reported to New York only a portion of his distributable share of partnership income as being derived from New York sources.

3. Charles L. Bergmann, John L. Cullen and Walter W. Friend were officers and employees of a corporation, the R.W. Pressprich & Co., Inc., and as such received salaries from the corporation. These salaries were reported by petitioners on their tax returns as being only in part from New York sources.

4. Mr. Bergmann, Mr. Cullen and Mr. Friend were covered as employees for unemployment insurance and the salaries were subject to withholding for social security and income taxes.

5. The salaries here in question were not included in the income of the partnership for Federal income tax purposes.

6. The deficiency here in issue attributes the salaries to the partnership and thereby increases the distributable share of each partner. Such increased distributable share as allocated to New York by the partnership's allocation ratio results in increased income allocated to New York.

#### CONCLUSIONS OF LAW

The salaries here in question are not attributable to the partnership for purposes of the personal income tax.

The deficiency against petitioner, Mr. Bergmann, is recomputed to be \$4,421.00 plus interest to the date of the deficiency of \$1,025.76 for a total of \$5,446.76.

The deficiency against petitioner, Mr. Cullen, is recomputed

to be \$2,818.00 plus interest to the date of deficiency of \$659.76 for a total of \$3,477.76.

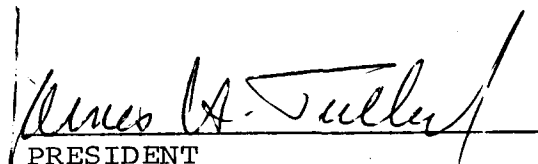
The deficiency against petitioner, Mr. Friend, is recomputed to be \$3,010.30 plus interest to the date of deficiency of \$707.56 for a total of \$3,717.86.

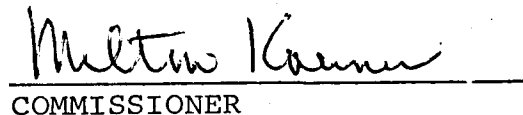
Such sums are due together with such further interest as shall be computed under section 684 of the Tax Law.

DATED: Albany, New York

February 28, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER