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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JEROME W. AND ESTELLE J. SELIGMAN

For a Redetermination of a Deficiency or
a Refund of Personal Income Tax
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1966

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 30th day of April , 1974 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Jerome W. and
Estelle J. Seligman

(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. Jerome W. Seligman

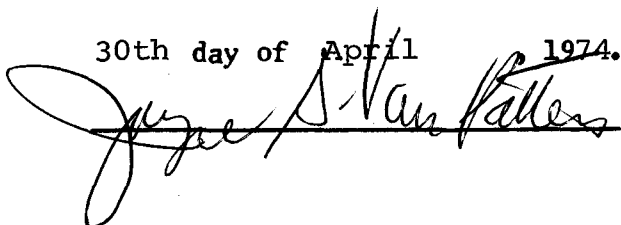
5151 Woodman Avenue
Sherman Oaks, California 91403

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.

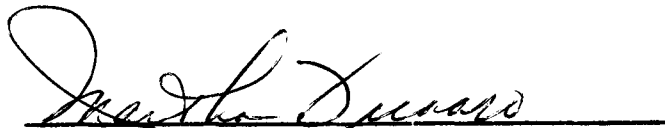
That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

30th day of April 1974.



Judge S. Van Kester



Martha Funaro



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
~~XXXXXXXXXX~~, 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 30, 1974

Mr. & Mrs. Jerome W. Seligman
5151 Woodman Avenue
Sherman Oaks, California 91403

Dear Mr. & Mrs. Seligman:

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

Please take further notice that pursuant to **section 690** of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 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,

Nigel G. Wright

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
JEROME W. and ESTELLE J. SELIGMAN : DECISION
for Redetermination of Deficiency or :
for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1966. :

Jerome W. and Estelle J. Seligman filed a petition under section 689 of the Tax Law for the redetermination of deficiency issued on July 28, 1969, in the amount of \$410.20 plus interest of \$56.25 for a total of \$466.45 for personal income tax under Article 22 of the Tax Law for the year 1966.

A hearing was duly scheduled for June 4, 1973, at 1:30 P.M. at the offices of the State Tax Commission, 80 Centre Street, New York, New York, Room 779, before Nigel G. Wright, Hearing Officer. The petitioners failed to appear and is in default. However, the case has been considered as submitted to the Commission on the file of the Income Tax Bureau. Said file has been duly examined and considered.

ISSUE

The issue in this case is the proper amount of petitioners' distributive share of partnership income.

FINDINGS OF FACT

1. Prior to 1966, petitioners were residents of Rego Park, Queens, New York. Mr. Seligman was a partner in the public accounting firm of Lyss, Glass & Seligman of 165 West 46th Street, New York City.
2. During 1966 or early 1967, petitioners moved to North Hollywood, California. Mr. Seligman was employed by an accounting

firm in Los Angeles. He apparently had ceased being a member of the New York partnership.

3. The firm of Lyss, Glass & Seligman filed a 1966 calendar year New York partnership return on April 9, 1967. This reported the distributive share of Jerome W. Seligman to be \$18,460.07. Mr. Seligman's address was reported to be in California. The return was signed by Martin Glass, one of the partners and was marked "final return".

4. On March 18, 1969, Mr. Seligman filed for the firm an amended partnership return which indicated his own share of partnership income to be \$12,500.00 and which increased the other partners' shares. Mr. Seligman had, in fact, signed the firm's tax returns in prior years. However, there is no indication that in 1969, petitioner was a member of the firm or otherwise had authority to file a return for it.

5. Petitioners assert that on February 1, 1966, the firm had amended its partnership agreement to give him a guaranteed \$12,500.00 effective January 1, 1966, instead of the portion of profits as previously provided. He has not, however, submitted a copy of the amended partnership agreement.


CONCLUSIONS OF LAW

Petitioners have not carried the burden of proof. The determination of a partner's distributive share is controlled by the partnership agreement (Internal Revenue Code §704(a); see also Hellman v. U.S. 44 F2d 83; Griscom 1946, U.S. Tax Court memo no. 97). Petitioners have not submitted such partnership agreement.


The deficiency is found correct and is due together with such further interest as may be computed under section 684 of the Tax Law.

DATED: Albany, New York
April 30, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

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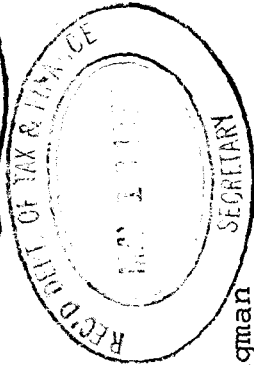
Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227



UNDELIVERABLE
MOVED, NOT RETURNABLE
 Addressee unknown

76339

Mr. & Mrs. Jerome W. Seligman

5151 Woodman Avenue

Sherman Oaks, California 91403



CERTIFIED
No. 204164 117
MAIL

STATE OF NEW YORK
STATE TAX COMMISSION

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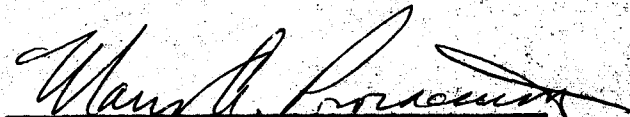
CONCLUSIONS OF LAW

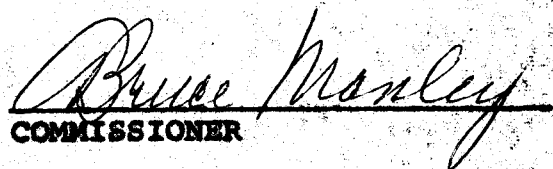
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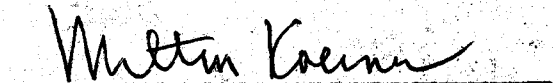
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DATED: Albany, New York
April 30, 1974

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