

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
EDWARD C. and MIRIAM P. JAEGERMAN

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) 1970. :

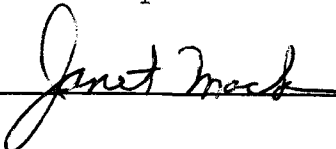
State of New York
County of Albany

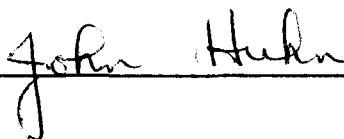
John Huhn, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 29th day of September, 1977, he served the within
Notice of Decision by (certified) mail upon Edward C. and
Miriam P. Jaegerman
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. and Mrs. Edward C. Jaegerman
35 Maple Lane
Green Farms, Connecticut 06436
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

29th day of September, 1977







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

September 29, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. and Mrs. Edward C. Jaegerman
35 Maple Lane
Green Farms, Connecticut 06436

Dear Mr. and Mrs. Jaegerman:

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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat
Hearing Examiner

cc: ~~Reputation's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
EDWARD C. and MIRIAM P. JAEGERMAN	:	DECISION
	:	
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1970.	:	

Petitioners, Edward C. and Miriam P. Jaegerman, residing at 35 Maple Lane, Green Farms, Connecticut 06436, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 13823).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on September 23, 1976 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner Miriam P. Jaegerman. The Income Tax Bureau appeared by Peter Crotty, Esq. (Louis Senft, Esq., of counsel).

ISSUES

I. Whether payments received by petitioner Edward C. Jaegerman from a New York partnership during the year 1970 constituted amounts includible in determining the 1970 New York adjusted gross income of petitioners, Edward C. and Miriam P. Jaegerman.

II. Whether petitioner Edward C. Jaegerman was entitled to participate in the partnership's distributable loss for the year 1970.

FINDINGS OF FACT

1. Petitioners, Edward C. and Miriam P. Jaegerman, filed a joint New York State nonresident income tax return for the year 1970. Petitioner Edward C. Jaegerman did not include as income on said return payments in the amount of \$27,360.00, which he received from the partnership of Charles Plohn and Company during the year 1970, since he contended that most of this money was returned to the partnership.

2. On April 12, 1974 the Income Tax Bureau issued a Notice of Deficiency against the petitioners in the sum of \$1,375.11. The deficiency was issued on the grounds that the payments of \$27,360.00 which petitioner Edward C. Jaegerman received from the partnership constituted income from New York sources and thereby reportable and taxable on the petitioners 1970 New York State income tax return.

3. Due to general business difficulties the partnership of Charles Plohn and Company was experiencing, petitioner Edward C. Jaegerman was admitted as a general and managing partner in October of 1968. He was given a 3% interest based on his expertise, and was not required to make an initial investment.

4. During the year 1970, the firm of Charles Plohn and Company developed working capital problems and the petitioner asserted that he voluntarily agreed to invest his own funds, and to return most of the payments due him from the partnership for services rendered as a partner.

5. The firm of Charles Plohn and Company filed a New York State partnership return for the year 1970, whereby the losses and partnership income were allocated to various partners in accordance with a supplemental partnership agreement then

in effect. Although petitioner Edward C. Jaegerman contended he was entitled to claim 3% of the partnership's losses for 1970 Federal and New York State income tax purposes, no portion of the firm's 1970 losses was allocated to him by the partnership. A copy of the partnership agreement was not entered into evidence or available for consideration.

CONCLUSIONS OF LAW

A. That petitioner Edward C. Jaegerman has not sustained the burden of proof in accordance with section 689(e) of the Tax Law in establishing that he was entitled to participate in the distribution of partnership losses, and in establishing that he returned the partnership income of \$27,360.00.

B. That although petitioner may have returned the \$27,360.00, said amount would have represented an additional investment to the partnership entity, and would still be includible in his New York adjusted gross income for the year 1970, in accordance with the meaning and intent of section 632 and section 637 of the Tax Law.

C. That the petition of Edward C. and Miriam P. Jaegerman is denied and the Notice of Deficiency issued April 12, 1974 in the amount of \$1,375.11 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

September 29, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

REQUEST FOR BETTER ADDRESS

Requested by <i>Mary Groff</i>	Unit <i>Tax Appeals Bureau Room 107, Bldg 9</i>	Date of Request <i>10/6/77</i>
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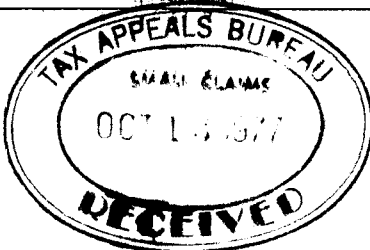
Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>220-38-0985</i>	Date of Petition <i>7/4/06/20</i>
Name <i>Edward C. & Miriam P. Jaegerman</i>	
Address <i>35 Maple Lane Green Farms, CT 06436</i>	

Results of search by Files

<input type="checkbox"/> New address:	
<input type="checkbox"/> Same as above, no better address	
<input checked="" type="checkbox"/> Other:	<i>0-76-4 0985 OK 10/10/77</i>

Searched by <i>J. Abraham</i>	Section <i>Int.</i>	Date of Search <i>10-1-77</i>
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER

SMALL CLAIMS

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

☒ () Mailed (60) no address
 () No return number
 () Return not returnable
 () Address unknown

Mr. and Mrs. Edward C. Jaegerman
 35 Maple Lane
 Green Farms, Connecticut 06436

NAME

1st Notice

2nd Notice

Return

6/13/77



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

September 29, 1977

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MILTON KOERNER
THOMAS H. LYNCH

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Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywat
Hearing Examiner

cc: ~~Petitioner's Representative~~

Taxing Bureau's Representative

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C. That the petition of Edward C. and Miriam P. Jaegerman is denied and the Notice of Deficiency issued April 12, 1974 in the amount of \$1,375.11 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York

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