

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Henry J. & Ann Cauceglia :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Personal Income Tax :
under Article 22 of the Tax Law
for the Year 1969. :

State of New York
County of Albany

Jay Vredenburg, 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 6th day of March, 1981, he served the within notice of Decision by certified mail upon Henry J. & Ann Cauceglia, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Henry J. & Ann Cauceglia
c/o Oppenheim, Appel, Dixon & Co.
140 Broadway
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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of March, 1981.

Conrad P. Hagelund

Jay Vredenburg

the stock brokerage business, filed a partnership return for the fiscal year ending September 30, 1969. On February 21, 1973, Edwards & Hanly and the State Tax Commission executed a consent extending the period within which to issue an assessment for the fiscal year ending September 30, 1969 to April 15, 1974. The aforementioned consent was further extended to April 15, 1975 on January 28, 1974.

2. On January 6, 1975, the Income Tax Bureau issued a Statement of Audit Changes against the partnership Edwards & Hanly imposing additional unincorporated business tax in the amount of \$39,490.72, plus interest of \$11,792.32, for a total of \$51,283.04. The Statement of Audit Changes was based on an audit re-allocating partnership income under §707(b) of the Tax Law instead of §707(c) as allocated by the partnership. The partnership consented to these findings.

3. Petitioner Henry J. Cauceglia was a nonresident partner of Edwards & Hanly in 1969 and received a distributive share of income from the partnership.

4. Petitioners Henry J. Cauceglia and Ann P. Cauceglia filed a New York State income tax nonresident return for 1969. A consent extending the time within which to issue an assessment for the year ending December 31, 1969 was executed by the petitioners and the State Tax Commission on March 12, 1973, which extended the time limit to April 15, 1974. A further consent extended the period for assessment for the year 1969 to April 15, 1975 and subsequently said period was further extended to April 15, 1976.

5. On April 12, 1976 the Audit Division issued a Statement of Audit Changes and Notice of Deficiency to petitioners Henry J. Cauceglia and Ann P. Cauceglia imposing personal income tax in the amount of \$3,982.81, plus interest of \$1,432.22, for a total of \$5,415.03 as a result of an increase in the

distributive share of Henry Cauceglia's partnership income from Edwards and Hanly because of the revision of allocation of partnership income to New York as more fully set forth in Finding of Fact "2", supra. The petitioners timely filed a petition for redetermination of the Notice of Deficiency issued against them for the year 1969.

CONCLUSIONS OF LAW

A. That the Notice of Deficiency issued against petitioner Henry Cauceglia for the year 1969 was timely issued in accordance with the provisions of section 683 of the Tax Law.

B. That the Statement of Audit Changes issued against the partnership for the fiscal year ending September 30, 1969 was properly issued in accordance with the provisions of section 722 of Article 23 of the Tax Law and was consented to by the partnership.

C. That consent by the partnership of Edwards & Hanly to the Audit Division re-allocation of partnership income to New York is binding on petitioner Henry Cauceglia as a partner, and provides a proper basis for increasing the portion of his distributive share of partnership income connected with New York sources and thus subject to New York State income tax.

D. That the petitioner Henry J. Cauceglia's New York adjusted gross income for the year 1969 derived from his activities on behalf of Edwards & Hanly in accordance with the intent and meaning of section 632(a)(1)(A) of the Tax Law constituted his distributive share of the partnership income of Edwards & Hanly as determined under section 637 of the Tax Law.

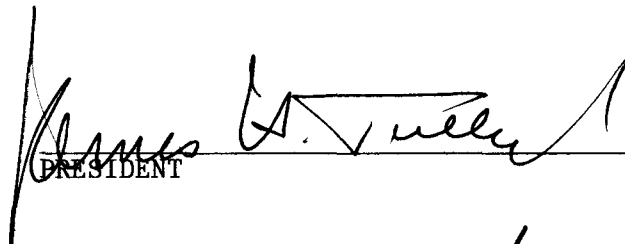
E. That the Notice of Deficiency issued against Henry J. Cauceglia and

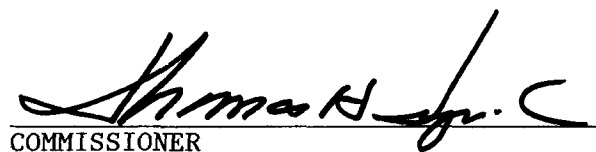
Ann P. Cauceglia for 1969 is correct and their petition for redetermination thereof is hereby denied.

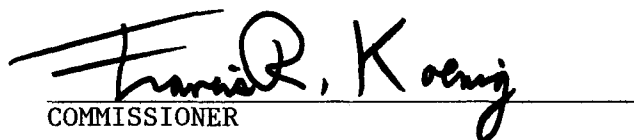
DATED: Albany, New York

MAR 06 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER