

STATE OF NEW YORK
STATE TAX COMMISSION

*Beauchamp--
West & Stava
U.B.T.
(23)*

In the Matter of the Petition

of

Beauchamp, West & Stava

For a Redetermination of a Deficiency or
a Refund of Unincorporated Business
Taxes under Article(s) 23 of the
Tax Law for the (Year(s) Feb. 28, 1961

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 21st day of January , 19 71, she served the within
Notice of Decision (or Determination) by (certified) mail upon Beauchamp,
West & Stava (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Beauchamp, West & Stava
115 Broadway
New York, New York

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

21st day of January , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Beauchamp, West & Stava

For a Redetermination of a Deficiency or
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West & Stava (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Louis Sternbach, Esq.
60 East 42nd Street
New York, New York

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

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known address of the (representative of the) petitioner.

Sworn to before me this

21st day of January , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Charles J. Stava &
Martha K. Stava

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) 1961

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 21st day of January , 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Charles J. Stava & Martha K. Stava (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Charles J. Stava & Martha K. Stava
217 Golf Edge
Westfield, 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

21st day of January , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Charles J. Stava & Martha K.
Stava

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) 1961

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

State of New York
County of Albany

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60 East 42nd Street
New York, New York

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

21st day of January , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

Thomas J. Beauchamp, Sr. &
Sally Beauchamp

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) 1960 & 1961:

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 21st day of January , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas J. Beauchamp, Sr. & Sally (representative of) the petitioner in the within Beauchamp proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Thomas J. Beauchamp Sr. & Sally Beauchamp
Split Rock Road
Syosset, New York

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

21st day of January , 1971.

Laurie Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
Thomas J. Beauchamp, Sr. &
Sally Beauchamp
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) 1960 & 1961:

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 21st day of January , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas J. Beauchamp, Sr. & Sally (representative of) the petitioner in the within Beauchamp proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Louis Sternbach, Esq.
60 East 42nd Street
New York, New York

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

21st day of January , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Edward F. Beauchamp &
Page D. Beauchamp
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) 1961

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 21st day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Edward F. & Page D. Beauchamp (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Edward F. & Page D. Beauchamp
14 Hampton Court
Port Washington, New York
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

21st day of January, 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
:
of
:
Edward F. Beauchamp &
Page D. Beauchamp
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) 1961

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 21st day of January , 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Edward F. Beauchamp & Page D. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Louis Sternbach, Esq.
60 East 42nd Street
New York, New York

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

21st day of January , 1971.

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

Thomas J. Beauchamp, Sr.,
Samuel W. West, Charles J.
Stava, Edmund F. Beauchamp
and Thomas J. Beauchamp, Jr.,
individually and as co-partners
d/b/u the firm name and style

of

BEAUCHAMP, WEST & STAVA

for a Redetermination of a Deficiency
or for Refund of Unincorporated Business
Tax under Article 23 of the Tax Law for
the fiscal year ending February 28, 1961

In the Matter of the Petition

of

Thomas J. Beauchamp, Sr.
and Sally Beauchamp

DECISION

for a Redetermination of a Deficiency or
for Refund of Personal Income Taxes under
Article 22 of the Tax Law for the years
1960 and 1961

In the Matter of the Petition

of

Edward F. Beauchamp and
Page D. Beauchamp

for a Redetermination of a Deficiency or
for Refund of Personal Income Tax under
Article 22 of the Tax Law for the year
1961

In the Matter of the Petition

of

Charles J. Stava and
Martha K. Stava

for a Redetermination of a Deficiency or
for Refund of Personal Income Taxes under
Article 22 of the Tax Law for the year
1961

Petitions having been filed pursuant to Sections 722 and 689 of the Tax Law with respect to unincorporated business taxes under Article 23 of the Tax Law and personal income taxes under Article 22 of the Tax Law as follows: by the partnership Beauchamp, West and Stava for the redetermination of a deficiency for the fiscal year ending February 28, 1961; by the partner Thomas J. Beauchamp, Sr., and his wife for a redetermination of a deficiency for the year 1960 and for a refund for the year 1961; by the partner Edward F. Beauchamp and his wife for the redetermination of a deficiency and for refund for the year 1961; by the partner Charles J. Stava and his wife for the redetermination of a deficiency and for refund for the year 1961; and a hearing having been duly held before Nigel G. Wright, Hearing Officer, and the record having been duly examined and considered.

The State Tax Commission hereby

FINDS:

1. The sole issue herein relates to the modification in income allowed under Articles 22 and 23 of the Tax Law (Sections 612(c) and 705(c)) for income and gains already subject to tax under Article 16 and 16-A of the Tax Law. The modification in question is the change in the basis of an inventory of securities brought about by a change from a first-in, first-out (FIFO) method of calculation under Articles 16 and 16-A to a last-in, first-out (LIFO) method of calculation as required under Articles 22 and 23 to conform with the method of calculation used for federal tax purposes.

2-A. A petition was filed by the partnership - Beauchamp, West and Stava - for the redetermination of a deficiency of \$10,890.13 asserted for the fiscal year ending February 28, 1961, on the basis that said deficiency should be cancelled insofar as it disallowed a deduction of \$621,473.17 taken on the return as a LIFO inventory adjustment. (No petition was filed with respect to a deficiency asserted by the same notice for the fiscal year ending February 28.

1962, and that is not in issue.)

2-B. A petition was filed by the partner, Thomas J. Beauchamp, Jr. and his wife for refund of \$11,831.69 in personal income taxes paid for the year 1961 by reason of a claim made for a modification for LIFO inventory adjustment of \$155,368.29 which would reduce his taxable income of \$124,966.88 as reported to a loss for the taxable year. (The petition also contested a deficiency asserted for 1960 based on additional income and the disallowance of a LIFO inventory adjustment, but that was withdrawn at the hearing.)

2-C. A petition was filed by the partner, Edward F. Beauchamp, and his wife, for the redetermination of a deficiency of \$374.97 asserted for 1961 and in addition for refund of \$3222.77 paid for the same year by reason of a claim for a LIFO inventory adjustment of \$93,221.00 which reduces taxable income and which had not been taken into account on the return as filed or in the deficiency notice for 1961. (No petition was filed with respect to a deficiency asserted in the same notice for 1960 based in part on a denial of the LIFO adjustment now claimed for 1961 nor was a petition filed with respect to a deficiency asserted in the same notice with respect to 1962.)

2-D. A petition was filed by the partner, Charles J. Stava, and his wife, for a redetermination of a deficiency of \$257.35 asserted for 1961 and in addition for refund of \$3824.69 paid for the same year by reason of claim for a LIFO inventory adjustment of \$93,221.00 which reduces taxable income to below zero and which had not been taken into account either in the return or in the deficiency notice for 1961. (No petition was filed with respect to a deficiency asserted in the same notice for 1960 based in part on a denial of the LIFO adjustment now claimed for 1961 nor was a petition filed with respect to a deficiency asserted in the same notice for 1962.)

3. By stipulation at the hearing, no facts are in dispute.

4. On March 1, 1960, upon becoming subject to Article 23 of the Tax Law the value of the inventory was decreased by \$621,473.17. The entire inventory was turned over in the fiscal year ending February 28, 1961. Any LIFO inventory adjustment must be reflected in that fiscal year and in no other year.

5. The individual partners must reflect the LIFO inventory adjustment of the partnership in the calendar year 1961 and in no other year. The proper adjustments for each partner is as follows: \$155,368.29 for Thomas J. Beauchamp, Jr.; \$93,221.00 for Edward F. Beauchamp; and \$93,221.00 for Charles J. Stava.

Upon the foregoing findings and all the evidence in the case,
The State Tax Commission hereby

DECIDES:

A. A LIFO basis adjustment is an appropriate modification for an unincorporated business to reduce federal gross income within the intent of Tax Law Section 705(c)(3). The same adjustment is appropriate for individuals under Tax Law Section 612(c)(4) and Regulation 20 NYCRR 116.3(d)(8).

B. The petitions are granted and

1. The deficiency against the partnership Beauchamp, West and Stava is cancelled in full;

2. A refund of \$11,831.69 is due to Thomas J. Beauchamp and his wife;

3. The deficiency against Edward F. Beauchamp and his wife is cancelled in full and a refund is granted to them of \$3222.77;

4. The deficiency against Charles J. Stava and his wife is cancelled in full and a refund is granted to them of \$3824.69.

DATED: Albany, New York

STATE TAX COMMISSION

Thomas J. Beauchamp
COMMISSIONER

Edward F. Beauchamp
COMMISSIONER

Charles J. Stava
COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Albany, New York

January 21, 1971

Charles J. & Martha K. Stava
217 Golf Edge
Westfield, New Jersey

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 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

Thomas J. Beauchamp, Sr.,
Samuel W. West, Charles J.
Stava, Edmund F. Beauchamp
and Thomas J. Beauchamp, Jr.,
individually and as co-partners
d/b/u the firm name and style

of

BEAUCHAMP, WEST & STAVA

for a Redetermination of a Deficiency
or for Refund of Unincorporated Business
Tax under Article 23 of the Tax Law for
the fiscal year ending February 28, 1961

In the Matter of the Petition

of

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and Sally Beauchamp

DECISION

for a Redetermination of a Deficiency or
for Refund of Personal Income Taxes under
Article 22 of the Tax Law for the years
1960 and 1961

In the Matter of the Petition

of

Edward F. Beauchamp and
Page D. Beauchamp

for a Redetermination of a Deficiency or
for Refund of Personal Income Tax under
Article 22 of the Tax Law for the year
1961

In the Matter of the Petition

of

Charles J. Stava and
Martha K. Stava

for a Redetermination of a Deficiency or
for Refund of Personal Income Taxes under
Article 22 of the Tax Law for the year
1961

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12226

Unclaimed
Addressed
Insufficient address
No such street
Do not list
Number



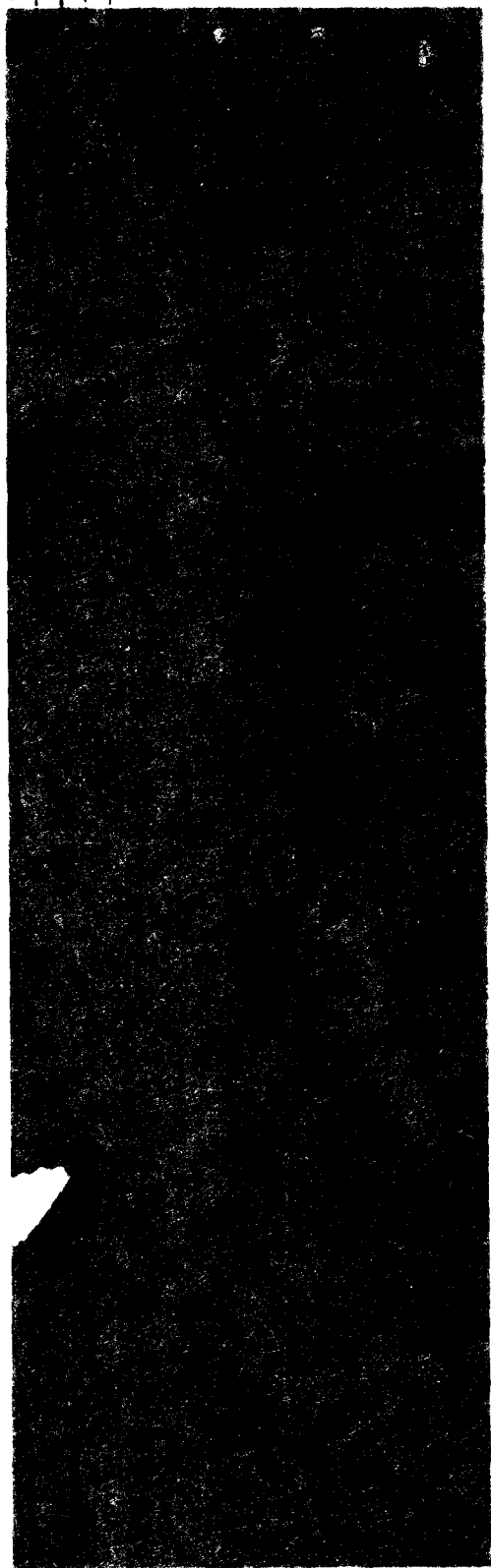
CERTIFIED

No 237860

MAIL

Charles J. & Martha K. Stava
217 GOLF Edge
Westfield, New Jersey





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The State Tax Commission hereby

FINDS:

1. The sole issue herein relates to the modification in income allowed under Articles 22 and 23 of the Tax Law (Sections 612(c) and 705(c)) for income and gains already subject to tax under Article 16 and 16-A of the Tax Law. The modification in question is the change in the basis of an inventory of securities brought about by a change from a first-in, first-out (FIFO) method of calculation under Articles 16 and 16-A to a last-in, first-out (LIFO) method of calculation as required under Articles 22 and 23 to conform with the method of calculation used for federal tax purposes.

2-A. A petition was filed by the partnership - Beauchamp, West and Stava - for the redetermination of a deficiency of \$10,890.13 asserted for the fiscal year ending February 28, 1961, on the basis that said deficiency should be cancelled insofar as it disallowed a deduction of \$621,473.17 taken on the return as a LIFO inventory adjustment. (No petition was filed with respect to a deficiency asserted by the same notice for the fiscal year ending February 28.

1962, and that is not in issue.)

2-B. A petition was filed by the partner, Thomas J. Beauchamp, Jr. and his wife for refund of \$11,831.69 in personal income taxes paid for the year 1961 by reason of a claim made for a modification for LIFO inventory adjustment of \$155,368.29 which would reduce his taxable income of \$124,966.88 as reported to a loss for the taxable year. (The petition also contested a deficiency asserted for 1960 based on additional income and the disallowance of a LIFO inventory adjustment, but that was withdrawn at the hearing.)

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3. By stipulation at the hearing, no facts are in dispute.

4. On March 1, 1960, upon becoming subject to Article 23 of the Tax Law the value of the inventory was decreased by \$621,473.17. The entire inventory was turned over in the fiscal year ending February 28, 1961. Any LIFO inventory adjustment must be reflected in that fiscal year and in no other year.

5. The individual partners must reflect the LIFO inventory adjustment of the partnership in the calendar year 1961 and in no other year. The proper adjustments for each partner is as follows: \$155,368.29 for Thomas J. Beauchamp, Jr.; \$93,221.00 for Edward F. Beauchamp; and \$93,221.00 for Charles J. Stava.

Upon the foregoing findings and all the evidence in the case,
The State Tax Commission hereby

DECIDES:

A. A LIFO basis adjustment is an appropriate modification for an unincorporated business to reduce federal gross income within the intent of Tax Law Section 705(c)(3). The same adjustment is appropriate for individuals under Tax Law Section 612(c)(4) and Regulation 20 NYCRR 116.3(d)(8).

B. The petitions are granted and

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4. The deficiency against Charles J. Stava and his wife is cancelled in full and a refund is granted to them of \$3824.69.

DATED: Albany, New York

STATE TAX COMMISSION

William L. Sullivan
COMMISSIONER

Robert M. Kelly
COMMISSIONER

William K. Kelly
COMMISSIONER