

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

Bingham-Bigotte & Co.

:

:

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated :
Business Tax under Article 23 of the Tax Law for :
the Years 1976 & 1977.

State of New York
County of Albany

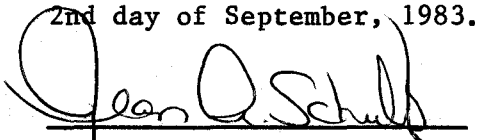
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Bingham-Bigotte & Co., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Bingham-Bigotte & Co.
90 Broad St.
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
2nd day of September, 1983.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
Bingham-Bigotte & Co. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Unincorporated
Business Tax under Article 23 of the Tax Law for :
the Years 1976 & 1977.

State of New York
County of Albany

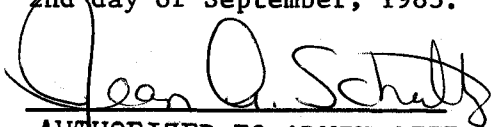
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

Robert Nast and Herman Pond

:

:

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 and Chapter 46, :
Title T of the Administrative Code of the City of :
New York for the Year 1977. :

State of New York
County of Albany

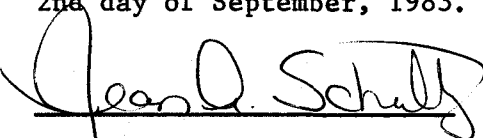
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Robert Nast, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert Nast
700 Fort Washington Ave.
New York, NY 10046

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
Robert Nast and Herman Poland :

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 and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

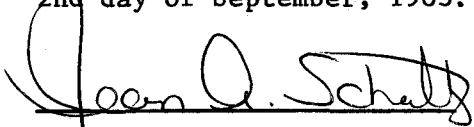
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

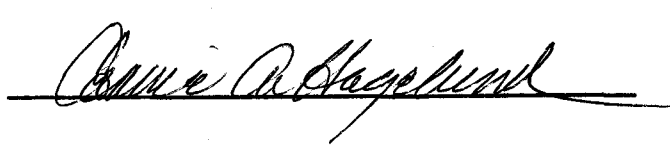
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005

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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
Robert Nast and Herman Poland : 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 and Chapter 46, :
Title T of the Administrative Code of the City of :
New York for the Year 1977. :

State of New York
County of Albany

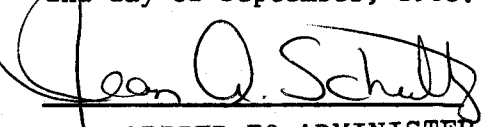
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Herman Poland, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Herman Poland
39-01 207th St.
Bayside, NY 11361

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of

Robert Nast and Herman Poland : 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 and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

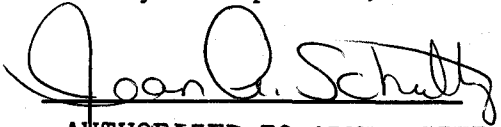
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

Robert & Betty Geib

:

:

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 and Chapter 46, :
Title T of the Administrative Code of the City of
New York for the Years 1976 & 1977. :

State of New York
County of Albany

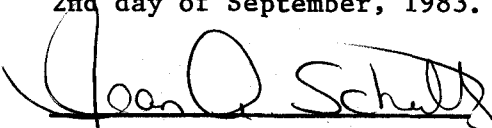
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Robert & Betty Geib, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

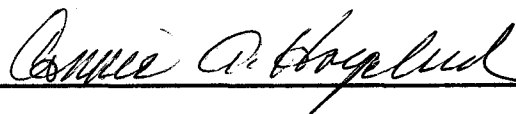
Robert & Betty Geib
Old Wheatly Rd.
Brookville, NY 11545

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of

Robert & Betty Geib

:

:

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 and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Years 1976 & 1977. :

State of New York
County of Albany

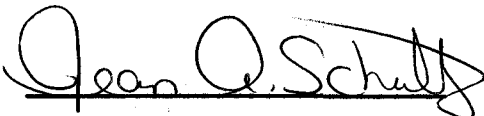
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.



AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jean & Eva Bigotte and Jules Bingham : 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 and Chapter 46 :
Title T of the Administrative Code of the City of :
New York for the Year 1977. :

State of New York
County of Albany

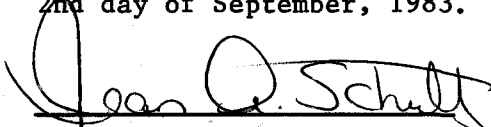
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Jean & Eva Bigotte, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

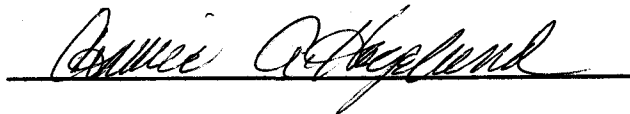
Jean & Eva Bigotte
9 Fieldstone Rd.
Rye, NY 10580

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jean & Eva Bigotte and Jules Bingham : 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 and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

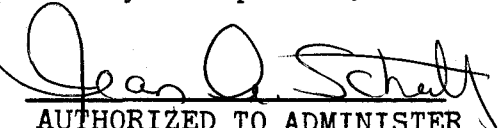
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jean and Eva Bigotte and Jules Bingham : 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 and Chapter 46,:
Title T of the Administrative Code of the City of
New York for the Year 1977. :

State of New York
County of Albany

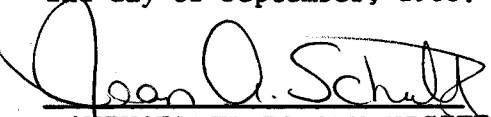
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Jules Bingham, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Jules Bingham
180 Sands Point Rd.
Sands Point, NY 11050

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Jean & Eva Bigotte and Jules Bingham : 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 and Chapter :
46, Title T of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

Connie Hagelund, 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 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

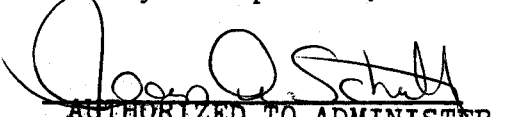
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005

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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.




AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Robert & Bertha Cohen and Henry & Jean Bracchi : 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 and Chapter 46, :
Title U of the Administrative Code of the City of :
New York for the Year 1977. :

State of New York
County of Albany


Connie Hagelund, 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 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Robert & Bertha Cohen, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Robert & Bertha Cohen
57 Boske Dr.
E. Brunswick, NJ 08816

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of
Robert & Bertha Cohen and Henry & Jean Bracchi : 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 and Chapter :
46, Title U of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

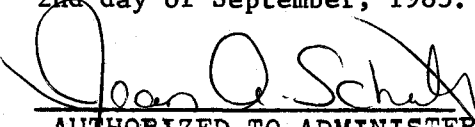
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Robert & Bertha Cohen and Henry & Jean Bracchi : 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 and Chapter 46,:
Title U of the Administrative Code of the City of :
New York for the Year 1977. :

State of New York
County of Albany

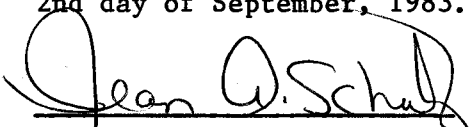
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Henry & Jean Bracchi, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

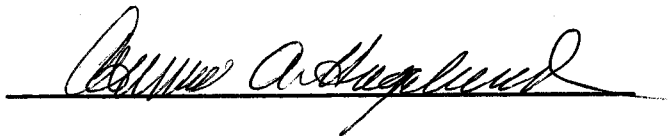
Henry & Jean Bracchi
99 Harpsichord Tpke.
Stamford, CT 06903

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
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Robert & Bertha Cohen and Henry & Jean Bracchi : 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 and Chapter :
46, Title U of the Administrative Code of the City :
of New York for the Year 1977. :

State of New York
County of Albany

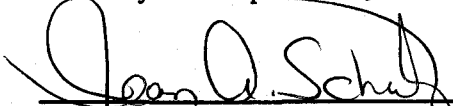
Connie Hagelund, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 2nd day of September, 1983, she served the within notice of Decision by certified mail upon Anthony J. D'Auria the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:


Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 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 last known address of the representative of the petitioner.

Sworn to before me this
2nd day of September, 1983.


AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174



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

September 2, 1983

Bingham-Bigotte & Co.
90 Broad St.
New York, NY 10004

Gentlemen:

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) 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 Law and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Robert Nast
700 Fort Washington Ave.
New York, NY 10046

Dear Mr. Nast:

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 Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Herman Poland
39-01 207th St.
Bayside, NY 11361

Dear Mr. Poland:

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 Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Robert & Betty Geib
Old Wheatly Rd.
Brookville, NY 11545

Dear Mr. & Mrs. Geib:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

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Taxing Bureau's Representative

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

September 2, 1983

Jean & Eva Bigotte
9 Fieldstone Rd.
Rye, NY 10580

Dear Mr. & Mrs. Bigotte:

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Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Jules Bingham
180 Sands Point Rd.
Sands Point, NY 11050

Dear Mr. Bingham:

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 Law 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.

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Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Robert & Bertha Cohen
57 Boske Dr.
E. Brunswick, NJ 08816

Dear Mr. & Mrs. Cohen:

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Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

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

September 2, 1983

Henry & Jean Bracchi
99 Harpsichord Tpke.
Stamford, CT 06903

Dear Mr. & Mrs. Bracchi:

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 Law 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.

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Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

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STATE TAX COMMISSION

cc: Petitioner's Representative
Anthony J. D'Auria
Cole & Deitz
40 Wall St.
New York, NY 10005
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition

of

BINGHAM-BIGOTTE & CO.

for Redetermination of a Deficiency or for
Refund of Unincorporated Business Tax under
Article 23 of the Tax Law for the Years 1976
and 1977.

In the Matter of the Petitions

of

ROBERT NAST and HERMAN POLAND

for Redetermination of a Deficiency or for
Refund of Personal Income Tax under Article 22
of the Tax Law and Chapter 46, Title T of the
Administrative Code of the City of New York for
the Year 1977.

DECISION

In the Matter of the Petition

of

ROBERT AND BETTY GEIB

for Redetermination of a Deficiency or for
Refund of Personal Income Tax under Article 22
of the Tax Law and Chapter 46, Title T of the
Administrative Code of the City of New York for
the Years 1976 and 1977.

In the Matter of the Petitions

of

JEAN AND EVA BIGOTTE AND JULES BINGHAM

for Redetermination of a Deficiency or for
Refund of Personal Income Tax under Article 22
of the Tax Law and Chapter 46, Title T of the
Administrative Code of the City of New York for
the Year 1977.

In the Matter of the Petitions :
 :
 of :
 :
 ROBERT AND BERTHA COHEN :
 AND HENRY AND JEAN BRACCHI :
 :
 for Redetermination of a Deficiency or for :
 Refund of Personal Income Tax under Article 22 :
 of the Tax Law and Chapter 46, Title U of the :
 Administrative Code of the City of New York for :
 the Year 1977. :

Petitioners, Bingham-Bigotte & Co., 90 Broad Street, New York, New York 10004, Robert Nast, 700 Fort Washington Avenue, New York, New York 10040, Robert and Betty Geib, Old Wheatley Road, Brookville, New York 11545, Jean and Eva Bigotte, 9 Fieldstone Road, Rye, New York 10580, Jules Bingham, 180 Sands Point Road, Sands Point, New York, 11050, Herman Poland, 39-01 207th Street, Bayside, New York 11361, Robert and Bertha Cohen, 57 Bosko Drive, East Brunswick, New Jersey 08816, and Henry and Jean Bracchi, 6 Nottingham Drive, Stamford, Connecticut 06907, filed petitions for redetermination of deficiencies or for refund of personal income and unincorporated business taxes under Articles 22 and 23 of the Tax Law and Chapter 46, Title T of the Administrative Code of the City of New York and New York City nonresident earnings tax under Chapter 46, Title U of the Administrative Code of the City of New York for the years 1976 and 1977 (File Nos. 30074, 30443, 30444, 30445, 30457, 30520, 30522 and 30523).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 24, 1982 at 9:15 A.M., with all briefs to be submitted by October 15, 1982. Petitioners appeared by Cole & Deitz, Esqs. (Anthony J. D'Auria, Esq., of counsel). The Audit Division appeared by Paul B. Coburn, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether petitioners were entitled to allocate partnership income where two partners, who were nonresidents of New York, conducted business by telephone from their out-of-state homes.

FINDINGS OF FACT

1. On February 6, 1980, as the result of a field audit, the Audit Division issued a Notice of Deficiency against petitioner Bingham-Bigotte & Co. ("Bingham") in the amount of \$39,365.11, plus interest of \$7,798.39, for a total due of \$47,163.50 for the years 1976 and 1977. On the same date, a Notice of Deficiency was issued against petitioners Robert and Betty Geib in the amount of \$58.07, plus penalty,¹ pursuant to section 685(c) of the Tax Law for 1976 and 1977, and interest of \$462.19, for a total due of \$520.26 for the years 1976 and 1977. The other petitioners are Bingham partners and their wives. On the same date, the Audit Division issued notices of deficiency for the year 1977 against the remaining petitioners as follows:

<u>PETITIONER</u>	<u>ADDITIONAL TAX DUE</u>	<u>PENALTY AND INTEREST</u>	<u>AMOUNT DUE</u>
Robert Nast	\$266.72	\$139.21	\$405.93
Jean and Eva Bigotte	436.67	67.21	503.88
Jules Bingham	536.35	82.55	618.90
Herman Poland	71.68	67.14	138.82
Henry and Jean Bracchi	56.00	8.62	64.62
Robert and Bertha Cohen	617.55	95.04	712.59

2. The deficiencies were based on a disallowance by the Audit Division of Bingham's allocation percentage for 1976 and 1977 due to work performed by two petitioners in their out-of-state homes. An adjustment was also made disallowing insurance expense for 1977 in the amount of \$9,264.00. The individual nonresident

¹ The 685(c) penalty imposed for underestimation of personal income tax is not at issue in this proceeding.

partners' New York income subject to tax was thus increased by their share of the partnership income which had been allocated outside New York and the disallowance of insurance expense for 1977. The resident partners' share of partnership income for 1977 was increased only to the extent of the adjustment made for insurance expense.

3. Petitioner Bingham-Bigotte & Co. is a New York partnership engaged in the ship brokerage business. Bingham used the following three-factor formula in determining the portion of its income to be allocated to New York State for the years in issue:

<u>FACTOR</u>	<u>1976</u>	<u>1977</u>
Property	100.00	100.00
Payroll	80.00	81.51
Gross Income	<u>1.08</u>	<u>1.19</u>
Total	181.08	182.70
Business Allocation Percentage (Divide total percentages by 3)	60.36	60.90

All property owned by Bingham was located entirely within New York State.

4. The ship brokerage business involves representing ship owners in obtaining cargo for their ships and negotiating agreements known as charter parties. Petitioners track each of their client's ships on world-wide voyages and attempt to obtain cargo for each ship at each port at which the ship stops. The ship broker contacts a cargo broker who represents cargo holders to ascertain whether any cargo is available at a particular port. If cargo is available or becomes available at a later date, negotiations begin between the ship owners and cargo holders through their respective brokers. Time is of the essence in these negotiations and since the principals involved are usually situated in widely-scattered time zones throughout the world, the brokers often find themselves negotiating at all hours of the day and night. Most negotiations

are conducted by telephone and charter parties are often agreed upon and executed prior to reducing the agreement to writing. According to testimony, there is a certain amount of good faith required by the parties in these transactions and brokers who do not measure up to this standard do not remain in business for a long period.

5. Due to the nature of the ship brokerage business, petitioners often conduct their business over the telephone at home at odd hours of the night. Petitioners Robert Cohen and Henry Bracchi lived out of state, in New Jersey and Connecticut, respectively. In determining New York State partnership income, petitioners allocated to New Jersey and Connecticut the percentage of income corresponding to the time spent by the out-of-state partners for business transacted at home. The partnership returns of Bingham did not show a deduction for business or income taxes paid to any state other than New York.

6. Neither of the out-of-state petitioners had formal offices in their homes. There were no desks, files, records, office equipment or other accoutrements of a place of business in the partners' homes. All business was transacted over the family telephone located on a night stand in the bedroom. Petitioners only listed the New York City office on their business letterhead and no place of business in New Jersey or Connecticut was listed in the telephone directories of either of those states. The New York partnership returns for 1976 and 1977 do not show the location of an office outside this state. The Association of Ship Brokers & Agents (U.S.A.), Inc., of which petitioners were members, published a directory of home telephone numbers of its member brokers in order to facilitate at-home transactions and all of Bingham's partners were listed in said directory.

CONCLUSIONS OF LAW

A. That section 707(a) of the Tax Law provides:

"If an unincorporated business is carried on both within and without this state, as determined under regulations of the tax commission, there shall be allocated to this state a fair and equitable portion of the excess of its unincorporated business gross income over its unincorporated business deductions. If the unincorporated business has no regular place of business outside this state, all of such excess shall be allocated to this state."

B. That 20 NYCRR 207.2(a) provides:

"In general, an unincorporated business is carried on at any place either within or without New York State where the unincorporated business entity has a regular place of business. The occasional consummation of an isolated transaction in or at a place where no regular place of business is maintained does not constitute the carrying on of business at such place. A regular place of business is any bona fide office, factory, warehouse or other place which is systematically and regularly used by the unincorporated business entity in carrying on its business."

Moreover, 20 NYCRR 207.2(c) provides:

"The foregoing provisions of this section are not exclusive in determining whether an unincorporated business has a regular place of business outside New York State or in determining whether the business is carried on both within and without New York. Where any question on these points exists, consideration should be given to all of the facts pertaining to the conduct and operation of the business including:

- (1) the nature of the business,
- (2) the type and location of each place of business used in the activity,
- (3) the nature of the activity engaged in at each place of business, and
- (4) the regularity, continuity and permanency of the activity at each location."

C. That petitioners did not have a regular place of business outside New York State. The fact that two of Bingham's partners transacted extensive late-night business over their home telephones is not sufficient to establish a regular place of business for the partnership outside New York within the meaning and intent of section 707(a) of the Tax Law and 20 NYCRR 207.2(a) and (c). Since petitioners maintained no regular place of business outside New

York, all taxable partnership income should have been allocated to New York State and New York City.


D. That inasmuch as all partnership income was derived from a New York State and City source, the Audit Division properly adjusted the resident and nonresident income taxes of member partners in accordance with the meaning and intent of sections 617 and 637 of Article 22 of the Tax Law and section T46-117.0 of Chapter 46, Title T and section U46-2.0 of Chapter 46, Title U of the Administrative Code of the City of New York.

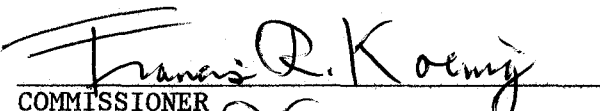
E. That the petitions of Bingham-Bigotte & Co., Robert Nast, Robert and Betty Geib, Jean and Eva Bigotte, Jules Bingham, Herman Poland, Robert and Bertha Cohen, and Henry and Jean Bracchi are denied and the notices of deficiency issued February 6, 1980 are sustained.


DATED: Albany, New York

STATE TAX COMMISSION

SEP 02 1983


PRESIDENT


COMMISSIONER


COMMISSIONER

TA 26 (9-79)

STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227



CLAIM CHECK
NO.

242344

☐ HOLD

DATE

9/6
1ST NOTICE

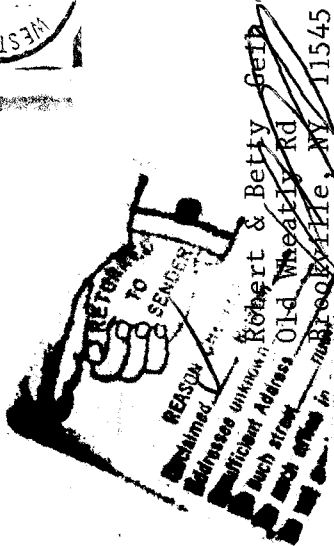
2ND NOTICE

10/7

RETURN

10/12

Detached from
PS Form 3848-A
Oct. 1980



Robert & Betty Geis
Old Wheatly Rd
Brookville, NY 11545

CERTIFIED

P 481 208 360

MAIL

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

September 2, 1983

Robert & Betty Geib
Old Wheatly Rd.
Brookville, NY 11545

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New York, NY 10005
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STATE OF NEW YORK

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Point Road, Sands Point, New York, 11050, Herman Poland, 39-01 207th Street,
Bayside, New York 11361, Robert and Bertha Cohen, 57 Bosko Drive, East Brunswick,
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6. Neither of the out-of-state petitioners had formal offices in their homes. There were no desks, files, records, office equipment or other accoutrements of a place of business in the partners' homes. All business was transacted over the family telephone located on a night stand in the bedroom. Petitioners only listed the New York City office on their business letterhead and no place of business in New Jersey or Connecticut was listed in the telephone directories of either of those states. The New York partnership returns for 1976 and 1977 do not show the location of an office outside this state. The Association of Ship Brokers & Agents (U.S.A.), Inc., of which petitioners were members, published a directory of home telephone numbers of its member brokers in order to facilitate at-home transactions and all of Bingham's partners were listed in said directory.

CONCLUSIONS OF LAW

A. That section 707(a) of the Tax Law provides:

"If an unincorporated business is carried on both within and without this state, as determined under regulations of the tax commission, there shall be allocated to this state a fair and equitable portion of the excess of its unincorporated business gross income over its unincorporated business deductions. If the unincorporated business has no regular place of business outside this state, all of such excess shall be allocated to this state."

B. That 20 NYCRR 207.2(a) provides:

"In general, an unincorporated business is carried on at any place either within or without New York State where the unincorporated business entity has a regular place of business. The occasional consummation of an isolated transaction in or at a place where no regular place of business is maintained does not constitute the carrying on of business at such place. A regular place of business is any bona fide office, factory, warehouse or other place which is systematically and regularly used by the unincorporated business entity in carrying on its business."

Moreover, 20 NYCRR 207.2(c) provides:

"The foregoing provisions of this section are not exclusive in determining whether an unincorporated business has a regular place of business outside New York State or in determining whether the business is carried on both within and without New York. Where any question on these points exists, consideration should be given to all of the facts pertaining to the conduct and operation of the business including:

- (1) the nature of the business,
- (2) the type and location of each place of business used in the activity,
- (3) the nature of the activity engaged in at each place of business, and
- (4) the regularity, continuity and permanency of the activity at each location."

C. That petitioners did not have a regular place of business outside New York State. The fact that two of Bingham's partners transacted extensive late-night business over their home telephones is not sufficient to establish a regular place of business for the partnership outside New York within the meaning and intent of section 707(a) of the Tax Law and 20 NYCRR 207.2(a) and (c). Since petitioners maintained no regular place of business outside New

York, all taxable partnership income should have been allocated to New York State and New York City.

D. That inasmuch as all partnership income was derived from a New York State and City source, the Audit Division properly adjusted the resident and nonresident income taxes of member partners in accordance with the meaning and intent of sections 617 and 637 of Article 22 of the Tax Law and section T46-117.0 of Chapter 46, Title T and section U46-2.0 of Chapter 46, Title U of the Administrative Code of the City of New York.

E. That the petitions of Bingham-Bigotte & Co., Robert Nast, Robert and Betty Geib, Jean and Eva Bigotte, Jules Bingham, Herman Poland, Robert and Bertha Cohen, and Henry and Jean Bracchi are denied and the notices of deficiency issued February 6, 1980 are sustained.

DATED: Albany, New York

STATE TAX COMMISSION

SEP 02 1983

Richard W. Clun
PRESIDENT

Francis Q. Koenig
COMMISSIONER

[Signature]
COMMISSIONER