

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	Affidavit of Mailing
Helen P. Tallmadge (Deceased)	:	of Notice of Decision,
	:	by Registered Mail
For a Redetermination of a Deficiency	:	
or a Refund of Personal Income	:	
Taxes under Article(s) 16 of the Tax	:	
Law for the year(s) 1957	:	

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State of New York  
County of Albany

Patricia Whitman, being duly sworn, deposes and says, that she is an employee of the Department of Taxation and Finance, and that on the 22nd day of May, 1969, she served the within Notice of Decision (or of "Determination") by registered mail upon Helen P. Tallmadge (Deceased) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:  
Miss Helen P. Tallmadge, c/o John F. Brady, CPA, 500 Fifth Avenue, New York, NY  
and by delivering the same at Room 214a, Building 8, Campus, Albany, marked "REGISTERED MAIL" to a messenger of the Mail Room, Building 9, Campus, Albany, to be mailed by registered mail.

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

22nd day of May, 1969.

*Patricia Whitman*

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
HELEN P. TALLMADGE (Deceased)	:	Affidavit of Mailing
	:	of Notice of Decision,
	:	by Registered Mail
	:	
For a Redetermination of a Deficiency	:	
or a Refund of PERSONAL INCOME	:	
Taxes under Article(s) 16 of the Tax	:	
Law for the year(s) 1957	:	

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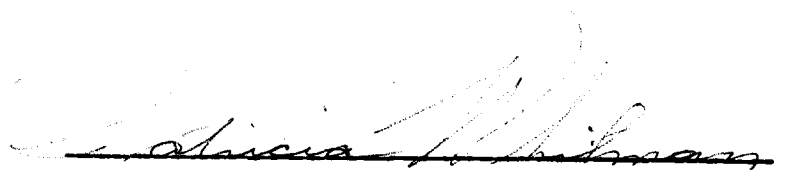
State of New York  
County of Albany

Patricia Whitman, being duly sworn, deposes and says, that she is an employee of the Department of Taxation and Finance, and that on the 22nd day of May, 1969, she served the within Notice of Decision (or of "Determination") by registered mail upon Mr. John F. Brady, CPA, Representative for the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:  
Mr. John F. Brady, CPA, 500 Fifth Avenue, New York, NY

and by delivering the same at Room 214a, Building 8, Campus, Albany, marked "REGISTERED MAIL" to a messenger of the Mail Room, Building 9, Campus, Albany, to be mailed by registered mail.

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  
22nd day of May, 1969.



STATE OF NEW YORK  
STATE TAX COMMISSION

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IN THE MATTER OF THE APPLICATION :  
OF :  
HELEN P. TALLMADGE (Deceased) :  
FOR REVISION OR REFUND OF PERSONAL :  
INCOME TAXES UNDER ARTICLE 16 OF :  
TAX LAW FOR THE YEAR 1957 :  
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A personal income tax return and an amended return for the year 1957 having been filed by taxpayer pursuant to Article 16 of Tax Law, and an application for revision or refund related to a refund claimed in the said amended return also having been filed, and such application having been denied; and a hearing having been held on May 15, 1964 at the offices of the New York State Department of Taxation and Finance, 80 Centre Street, New York, New York, before Francis X. Boylan, Hearing Officer, and the deceased taxpayer having been represented by John F. Brady, C.P.A. of New York, New York; and the record having been duly examined and considered,

The State Tax Commission hereby finds that:

(1) The taxpayer in her 1957 personal income tax return reported net income in the amount of \$121,439.63 and later filed an amended return which reported net income of \$109,214.26 after a further deduction claimed in such amended return in the amount of \$12,225.37. By application for revision or refund a related refund in the amount of \$855.77 was claimed, and this application was denied.

(2) The taxpayer, as the widow of a decedent, pursuant to that decedent's last will, reportedly was until 1955 the beneficiary of two-thirds of the income of a trust of the residuary estate and also had rights of dower. The trust was for the lifetime of the taxpayer and of another person while both lives continued. After the death of that person in 1955, and during 1957, the year under consideration, the decedent was the owner in fee of 75% of the corpus of said trust which consisted of the residuary of the said estate and which included as a major asset an urban office building. There was a final accounting in July 1957 and pursuant to decree therein, in addition to the rest of the taxpayer's share of the said estate a fund consisting of cash on hand in the amount of \$22,919.83 was turned over to her, as agent for the owners of this office building. The taxpayer's 75% interest in principal and related income, and her dower rights in the remaining 25% of income gave her an interest in income derived out of the estate equal to an 83.3% share thereof in 1957.

Out of this \$22,919 fund, the taxpayer paid out in October 1957 to lawyers and to an accountant for their services, rendered as it is found in the final accounting of the said estate and in behalf of the said estate, a sum of \$14,670.44. A portion of such expenditure in the amount of \$12,225.37 was the expense claimed by taxpayer as an allowable deduction against her income for the year 1957.

(3) The taxpayer's original and amended returns in 1957, which reported income from the said office building's net rentals, did not reflect the receipt of any portion of the said fund of \$22,919.83 as income in that year, as it is found.

Upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

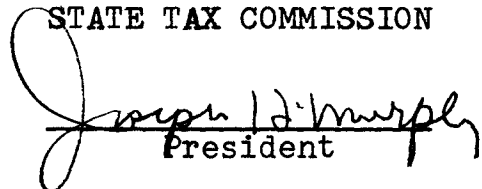
D E T E R M I N E S:

(A) That the expenditure of \$14,670.44 made by taxpayer out of a fund transferred to her from the decedent's estate was made in payment of fees for services rendered to the said estate for which the estate was liable, and no portion thereof was paid by taxpayer as a personal expenditure out of her own funds or property, and the portion of said expenditure claimed as a deduction against personal income was not an allowable deduction to her personally under provisions of Tax Law, or under section 360 thereof, which allows a deduction for ordinary and necessary expenses paid or incurred for the production or collection of income required to be included in gross income or for a business expense.

(B) That taxpayer's related application for revision or refund, claiming an allowable deduction in the amount of \$12,225.37 from income in the year 1957 and a related refund of taxes is accordingly denied.

DATED: Albany, New York, this 12th day of May , 1969.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner