

STATE OF NEW YORK
STATE TAX COMMISSION

Anson-Mabel E. F.
Personal
(16)

In the Matter of the Petition

of
Mabel E. F. Anson

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) 1955

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

State of New York
County of Albany

Claire A. Draves, 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 Alexander, Halpern & Harry M. Smith (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Alexander, Halpern & Harry M. Smith
530 Fifth Avenue
New York, New York 10036
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

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

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530 Fifth Avenue
New York, New York 10036
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.

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Sworn to before me this

21st day of January, 1971.

Linda Wilson

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
 of the :
TRUSTEES UNDER THE WILL : DETERMINATION
 of :
MABEL E. F. ANSON :
for Revision or Refund of Personal :
Income Taxes under Article 16 of :
the Tax Law for the year 1955 :

The trustees under the will of Mabel E. F. Anson applied for a revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1955. A formal hearing was held before Francis X. Boylan, Hearing Officer, in the offices of the State Tax Commission in the City of New York on October 9, 1969. The trustees were represented by Pross, Halpern, Lefevre, Raphael and Alter (John Flynn, Esq., of counsel) and the Income Tax Bureau was represented by Edward H. Best, Esq. (Albert J. Rossi, Esq., of counsel).

FINDINGS OF FACT

1. The issue in this case is whether the cost basis for personal income tax on certain property should be as valued by federal or New York State for estate tax purposes.

2. The property involved in this case is located at 4-5-6 Columbus Circle, New York City. This property was taken over by the City of New York under condemnation proceedings in the year 1955.

3. On April 24, 1944, the Surrogate of Orange County, Charles F. Taylor, entered an order fixing the market value of this property pursuant to Article 10c of the Tax Law at \$275,000.00.

4. Trustees filed a New York State Fiduciary Return for the year 1955 and, in determining Capital Gains used a cost basis for the property of \$472,259.38.

5. Internal Revenue Service revalued the property at \$456,395.46 in a federal estate tax proceeding.

6. Pursuant to Section 249-n of Article 10C an additional assessment, #B495459 dated November 13, 1958, was imposed upon the trustees in the amount of \$7,923.42, using \$275,000.00 as the basis of the property and adding eighty percent of the additional federal tax.

7. Article 491-f of the Income Tax Regulations provides that if appraisals are made as of the same date for both New York Estate Tax and Federal Estate Tax purposes the former appraisal shall be the fair market value for computing capital gain.

DETERMINATION

A. The cost basis of the property in question is correctly stated in the notice of additional assessment at \$275,000.00.

B. The additional assessment by the Income Tax Bureau is in conformity with New York State Law and Regulations.

C. The notice of additional assessment is sustained and the application is denied.

DATED: Albany, New York
January 21, 1971

STATE TAX COMMISSION

Norman Gelbrau
COMMISSIONER

Bruce Manley
COMMISSIONER

Milton Koenn
COMMISSIONER