

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY F. WECHSLER

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) 1958 & 1959 :

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 23rd day of December , 1971 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Harry F.

Wechsler (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Harry F. Wechsler
88 Central Park West
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

23rd day of December , 1971

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

HARRY F. WECHSLER

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) 1958 & 1959 :

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 23rd day of December , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Lynton, Klein, Opton & Saslow (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Lynton, Klein, Opton & Saslow
100 Park Avenue
New York, New York 10017
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

23rd day of December , 1971.

Rae Zimmerman

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
HARRY F. WECHSLER	:	DETERMINATION
For Revision or Refund of Personal	:	
Income Taxes for the years 1958 and	:	
1959.	:	

The taxpayer having filed applications pursuant to Section 374 of the Tax Law for revision of assessments issued November 27, 1962, of personal income tax due under Article 16 of the Tax Law for the years 1958 and 1959 and a hearing having been demanded and in lieu thereof, the matter submitted to the Commission upon documents alone and such record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The sole issue herein is to what extent the basis of certain stock sold by the taxpayer should have been increased because of a forgiveness, by his predecessor in interest, of a debt of the corporation.

2. The assessments are for \$722.27 for 1958 and \$950.47 for 1959.

3. In each of the taxable years taxpayer received \$21,399.96 as installment payments in a sale made on October 1, 1956, of 660 shares of stock of Phillip Wechsler and Son, Inc. Each installment was one-tenth of the total sales price of \$214,000.00.

3-1. Taxpayer had acquired such shares from his father, Phillip Wechsler, by gift on October 17, 1930.

4. The assessment computes the taxable capital gain for each year as \$21,399.96 less a cost basis of \$5604.16, being one-tenth of

a total cost of \$56,041.03. Such gain is \$15,795.31 each year.

5. The taxpayer alleges the correct taxable capital gain each year is only \$13,460.57 arrived at by using a cost basis of \$7,945.39 or one-tenth of a total cost basis of \$79,453.89.

6. The shares of Phillip Wechsler and Son, Inc. were owned 55% (3300) by Phillip Wechsler and 45% (2700) by his son, Abraham Wechsler. It is conceded that the 3300 shares owned by Phillip Wechsler had a cost basis of at least \$137,129.44. At some time in 1930 Phillip Wechsler forgave a debt that the corporation owed him of \$260,140.01.

7. The taxpayer asserts that this entire amount should increase his basis to \$397,269.45 for the 3300 shares or \$79,453.29 for 660 shares.

8. The Department asserts that the forgiveness of the indebtedness of the corporation by Phillip Wechsler constituted a gift of part of the value of the indebtedness to the other shareholder, Abraham Wechsler. On this assumption the basis of Phillip Wechsler's shares was increased by only \$143,077.01 (55% of the \$260,140.01 indebtedness) to a total basis of \$280,260.45 for the 3300 shares or \$56,041.63 for 660 shares.

9. At the time of the forgiveness of indebtedness there was no Federal Gift Tax and there appears to be no reason why a gift to relatives would be made indirectly through a corporation rather than directly.

10. The forgiveness of indebtedness was made solely to aid the corporation.

11. Federal tax proceedings on these same issues have been concluded favorably to the taxpayer.


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

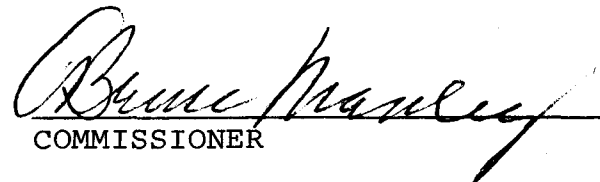
DETERMINES:

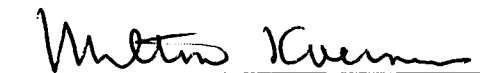
A. The application is granted and the assessment is cancelled in full.

DATED: Albany, New York
December 23, 1971

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER