

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

B. HARRY FRANKEL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 16 & 16-A of the
Tax Law for the (Year(s) 1960.

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

State of New York
County of Albany

Linda Wilson , 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 29th day of February , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon MOSES FUCHS, C.P.A.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Moses Fuchs, C.P.A.

15 Park Row
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

29th day of February , 19 72

Rae Zimmerman

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

B. HARRY FRANKEL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
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State of New York
County of Albany

Linda Wilson, 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 29th day of February, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon DAVID RUBIN, ESQ.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: David Rubin, Esq.

217 Broadway
New York, New York . 10007

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

29th day of February, 1972

Rae Zimmerman

Linda Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 23, 1972

B. Harry Frankel
798 Montgomery Street
Brooklyn, New York


Dear Mr. Frankel:

Please take notice of the **DETERMINATION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to section(s)
375 & 386j of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within **90 days** 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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,


Lawrence A. Newman
Hearing Officer

cc Petitioner's Representative
Law Bureau

Remailed Reps' copies. 2/29/71.

STATE OF NEW YORK
STATE TAX COMMISSION

Frankel, B. Harry
P.I. & UBT
1972

In the Matter of the Petition

of

B. HARRY FRANKEL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 16 & 16-A of the
Tax Law for the (Year(s) 1960.

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

State of New York
County of Albany

Linda Wilson, 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 February, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon B. HARRY
FRANKEL (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: B. Harry Frankel
798 Montgomery Street
Brooklyn, 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 February, 1972

Martha Fursaw

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

B. HARRY FRANKEL

For a Redetermination of a Deficiency or
a Refund of Personal Income & Unincorporated Business
Taxes under Article(s) 16 & 16-A of the
Tax Law for the (Year(s) 1960.

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

State of New York
County of Albany

Linda Wilson , 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 February , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon MOSES FUCHS

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Moses Fuchs
233 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

23rd day of February , 1972.

Martha Muraco

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
B. HARRY FRANKEL	:	
For Revision or Refund of Personal	:	DETERMINATION
Income Taxes under Article 16 and	:	
Unincorporated Business Taxes under	:	
Article 16-A of the Tax Law for the	:	
year 1960.	:	

Taxpayer filed an application for revision of Personal Income Taxes under the procedural provisions of Article 16 and Unincorporated Business Taxes under the procedural provisions of Article 16-A of the Tax Law for the year 1960. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission in the City of New York on May 16, 1967. Taxpayer was represented by David Rubin, Esq. and Moses Fuchs, C.P.A.

FINDINGS OF FACT

1. Taxpayer filed a New York State income tax resident return and an Unincorporated Business Tax return for the year 1960.

2. On November 19, 1962, the Department of Taxation and Finance issued notice of additional assessment number AB031646 in the amount of \$1,679.40.

The assessment was based on a finding by the Department that the balance of bad debt reserve account transferred to a newly formed corporation by the taxpayer was taxable income for Personal Income Tax and Unincorporated Business Tax purposes on the basis of U.S. Internal Revenue Code Regulation 1.166-4 and U.S. Revenue

Ruling 62-128.

3. Taxpayer was engaged in the plastic novelty business and in 1960 formed a corporation under the name of Franklin Plastic Specialties, Inc. All of the assets of the plastic business were transferred to the corporation subject to its liabilities. One of the assets transferred as a liability was the reserve for bad debts in the amount of \$12,918.53.

4. Revenue Ruling 62-128 interpreting Internal Revenue Code Regulations § 1.166-4 adopted July, 1959, states that the reserve for bad debts represents ordinary income to the taxpayer for the taxable year during which the transfer was made to a corporation controlled by the transferor. After the transfer ^{existed} to the corporation, no prospect/of any bad debt losses being incurred by the proprietorship in future years, since the proprietorship had no account which might become worthless. Any deduction for an addition to the reserve for bad debts may be made as of the end of the year by the successor corporation to its own reserve, not by the petitioner who individually will never sustain any bad debt loss.

DETERMINATION

- A. The assessment (based on Revenue Ruling 62-128) is correct.
- B. The application is denied and the assessment is sustained.

DATED: Albany, New York
February 23, 1972.

STATE TAX COMMISSION

Norman Gellman
COMMISSIONER

Bruce Nealey
COMMISSIONER

Milton Kuen
COMMISSIONER

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
 ALBANY, N. Y. 12227

Moses Fuchs

233 Broadway

New York, New York



RETURNED
TO
WRITER

- ☐ Moved, left no address
☒ No such number
☒ Moved, not forwardable
☐ Addressee unknown

NEW YORK, N.Y. 10007

NY

~~STATE OF NEW YORK~~
 Department of Taxation and Finance

STATE CAMPUS
 ALBANY, N. Y. 12227

Moses Fuchs

233 Broadway

New York, New York



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NEW YORK, N.Y. 10007

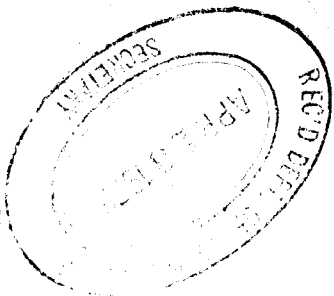
NY

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227



Moses Fuchs, C P.A.

233 Broadway

New York, N.Y. 10007



Address enclosed



Address enclosed

NEW YORK, N.Y. 10007

10007

Handwritten signature: J. Michael A. Miller

Handwritten number: 14



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 25, 1972

B. Harry Frankel
798 Montgomery Street
Brooklyn, New York

Dear Sir:

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

Please take further notice that pursuant to section(s)
375 & 386j of the Tax Law any proceeding
in court to review an adverse decision must be commenced
within 90 days 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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Lawrence A. Newman
Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :

of :

B. HARRY FRANKEL : DETERMINATION

For Revision or Refund of Personal Income :
Taxes under Article 16 and Unincorporated
Business Taxes under Article 16-A of the :
Tax Law for the Year 1960.

B. Harry Frankel applied for revision of personal income taxes under the procedural provisions of Article 16 and unincorporated business taxes under the procedural provisions of Article 16-A of the Tax Law for the year 1960. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission in the City of New York on May 16, 1967. Applicant was represented by David Rubin, Esq. and Moses Fuchs, C.P.A.

ISSUE

Whether the balance in the bad debt reserve was income to the transferor in the year that the business was transferred to a controlled corporation in a tax-free exchange.

FINDINGS OF FACT

1. The applicant, B. Harry Frankel, filed a New York State income tax resident return and an unincorporated business tax return for the year 1960.

2. On November 19, 1962, the Department of Taxation and Finance issued a notice of additional assessment, numbered AB031646, in the amount of \$1,679.40. The assessment was based on the value of the balance of the bad debt reserve account transferred to a newly formed corporation by the applicant.

3. The applicant was engaged in the plastic novelty business and in 1960 formed a corporation under the name of Franklin Plastic Specialties, Inc. All of the assets of the plastic business were transferred to the corporation subject to its liabilities. One of the assets transferred as a liability was the reserve for bad debts in the amount of \$12,918.53.

DETERMINATION

A. The balance in the bad debt reserve was not income to the transferor in the year that the business was transferred to the controlled corporation in a tax-free exchange. (Nash et al. v. U.S. (1970) 398 U.S. 1).

B. The application is granted and the assessment is cancelled.

DATED: Albany, New York

April 25, 1972

STATE TAX COMMISSION

Norman Gallivan
COMMISSIONER

Bruce Hanley
COMMISSIONER

Milton Korman
COMMISSIONER