

POOR
QUALITY
THE FOLLOWING
DOCUMENT (S)
ARE
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL GORDON

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962 & 1963 :

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 8th day of September , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Paul Gordon

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Paul Gordon
3009 Mermaid Avenue & 3833 Neptune Avenue
Brooklyn, New York & Brooklyn, New York 11224

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

8th day of September, 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PAUL GORDON

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1962 & 1963 :

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 8th day of September, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Howard C.

Kochman, Esq. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Howard C. Kochman, Esq.
83-30 118th Street
Kew Gardens, New York 11415

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

8th day of September, 1972.

Lynn Wilson

Martha Funaro



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

September 8, 1972

Paul Gordon
3833 Neptune Avenue
Brooklyn, New York 11234 & 3009 Mermaid Avenue
Brooklyn, New York

Dear Mr. Gordon:

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

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** 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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PAUL GORDON	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1962 and 1963.	:	

Paul Gordon filed a petition under section 689 of the Tax Law for the years 1962 and 1963 for the redetermination of a deficiency dated April 10, 1967, in personal income tax under Article 22 of the Tax Law for the years 1962 and 1963.

A hearing was duly held at the offices of the State Tax Commission, 80 Centre Street, New York, New York on March 9, 1972, before Nigel G. Wright, Hearing Officer. The petitioner was not represented. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether certain deposits in bank accounts were derived from unreported taxable income in the years in question.

FINDINGS OF FACT

1. Petitioner resides in Brooklyn, New York. He has been a practicing attorney in the Coney Island area of Brooklyn since 1945, and is a licensed general insurance broker.

2. Petitioner's tax returns for 1962 and 1963 showed interest received from several named bank accounts. Deposits in these accounts amounted to \$26,233.48 in 1962 and \$25,400.00 in 1963. The sums were not reported as income and were substantially in excess of the amounts petitioner did report as income during these years.

3. Mr. Gordon explained with respect to the ten bank accounts in question that the deposits were for the most part transfers from other accounts in either his own name or his mother's name, which existed prior to the years here in question. He showed in most cases that individual deposits were exactly identical with withdrawal from the premiums accounts made on the same day or a few days previously. The amounts received from his mother were explained as the repayment of loans. A small amount not taxable to prior accounts was explained as cash repayments by his mother.

4. Mr. Gordon explained the origin of his savings as derived from real estate transactions in prior years in which he had made large profits and the proceeds of which he had turned over to his mother, Ethel Gordon, as interest free loans. In 1953, Mr. Gordon purchased a tax lien covering property in Northern Boulevard, Bayside, Queens for \$12,500.00. He entered into an agreement transferring this lien to his mother, Ethel Gordon, subject to an option to repurchase. This agreement acknowledged that Paul Gordon had in the past and would in the future advance money, free of interest, to Ethel Gordon for the investment in and improvement of real estate. The Bayside property was still owned by Ethel Gordon at the time of her death in March, 1966, and had been improved by her and leased to Shell Oil Company on a long-term net lease.

Mr. Gordon received \$36,500.00 in 1952 upon the sale of vacant land on Atlantic Avenue in Brooklyn. Mr. Gordon loaned this money to his mother. In 1962, petitioner sold a Marina property in Sheepshead Bay, Brooklyn, realizing a substantial profit.

5. The deficiencies in issue amount to, \$4,811.79 with a penalty of 5% under section 685(b) of the Tax Law of \$240.59 and interest to the date of the deficiency of \$1,020.73 for a total of \$6,073.11. The deficiency for 1962 includes a small amount attributed to a disallowance of \$308.50 in auto expenses which has been conceded by the Income Tax Bureau at the hearing, to have been properly allowable.

CONCLUSIONS OF LAW

A. The mere existence of savings in bank accounts is not evidence of taxable income. (Nasdero, 1968, U.S. Tax Court, Memo. Dec. 60; Collins, 1970, U.S. Tax Court, Memo. Dec. 91.) At any rate, petitioner here has clearly shown that his savings were not derived from taxable income during the years in question.

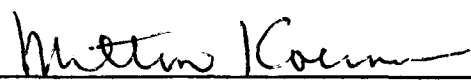
The petition is granted. The deficiency is found erroneous in its entirety.

DATED: Albany, New York
September 8, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER