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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

on behalf of

DAVID MINTZ (deceased) and by
LENA MINTZ, his wife

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) 1960, 1961,
1962 and 1963

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

State of New York
County of Albany

Rae Zimmerman, 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 31st day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Lena Mintz

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

c/o Gilbert Mintz
55 Fairview Avenue
Woodcliff Lake, New Jersey 07675

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

31st day of May, 1972.

Martha Furano

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

on behalf of

DAVID MINTZ (deceased) and by :
LENA MINTZ, his wife :

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

For a Redetermination of a Deficiency or
a Refund of Personal Income Taxes :
~~Taxes~~ under Article(s) 22 of the :
Tax Law for the (Year(s) 1960, 1961, :
1962 and 1963

State of New York
County of Albany

Rae Zimmerman, 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 31st day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Morris Sherman

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

Morris Sherman, Esq.
150 Broadway
New York, N.Y. 10006

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

31st day of May, 1972.

Franka Furaro

Rae Zimmerman

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

on behalf of

DAVID MINTZ (deceased) and by :
LENA MINTZ, his wife :

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) 1960, 1961 :
1962 and 1963 :

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

State of New York
County of Albany

Rae Zimmerman, 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 31st day of May, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Murray Schwartz

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

wrapper addressed as follows: Murray Schwartz, Esq.
Schwartz, Schindler & Levy
295 Madison Avenue

New York, N.Y. 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

31st day of May, 1972.

Martha Furuseth

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED:

Albany, New York

May 31, 1972

Mrs. Lena Mints

c/o Gilbert Mints

55 Fairview Avenue

Woodcliff Lake, New Jersey 07675

Dear Mrs. Mints:

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

Please take further notice that pursuant to
Section(s) **690** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from 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 relative
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

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
on behalf of :
DAVID MINTZ (deceased), and by :
LENA MINTZ, his wife : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for the :
Years 1960, 1961, 1962 and 1963. :

Gilbert Mintz, as the administrator for the estate of David Mintz, and Lena Mintz have petitioned for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1960, 1961, 1962 and 1963. A formal hearing was held in the offices of the State Tax Commission in the City of New York on November 9, 1965, and continued on February 24, 1966. The administrator and Mrs. Mintz appeared through Murray Schwartz, Esq. and Morris Sherman, Esq.

FINDINGS OF FACT

1. The issue in this matter is whether cash discovered subsequent to the death of the taxpayer should be treated as unreported taxable income for the years in issue.

2. At the time of his death in 1963, David Mintz maintained two (2) safe deposit boxes containing a total of \$36,480.00 in cash. In addition, deposits were made in the decedent's savings accounts in 1963, prior to his death totalling \$21,700.00. A determination was made by the Income Tax Bureau that these monies represented unreported income. Based upon this determination, Notice of Deficiency, File No. 3-8615056 dated October 5, 1964, was issued for the years in question in the amount of \$5,205.74 plus interest. The administrator had consented to an extension of time for the assessment of additional taxes for the year 1960 to April 15, 1965.

3. The two (2) safe deposit boxes noted in paragraph 2 above were located at the Chase Manhattan Bank and the Marine Midland Bank. Of the \$36,480.00, \$33,000.00 was in the deposit box at Chase Manhattan.

4. During the period January, 1953, to January, 1963, there was no access gained to the deposit box at Chase Manhattan. Access was made to this box on January 7, 1963, and again on January 31, 1963.

5. On January 7, 1963, and January 8, 1963, a total of \$21,700.00 was deposited by the decedent in several newly opened savings accounts. In addition to this amount, the decedent had other savings deposits amounting to \$71,878.58 at the time of his death.

DECISION

A. The administrator has sustained the burden of proof that the funds discovered subsequent to the death of David Mintz do not represent unreported taxable income for the years 1960, 1961, 1962 and 1963.

B. The petition is therefore sustained and the Notice of Deficiency, File No. 3-8615056 is cancelled in full.

DATED: Albany, New York

STATE TAX COMMISSION

May 31, 1972

COMMISSIONER

Bruce Hanley

COMMISSIONER

Milton Koenig

COMMISSIONER