

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

ESTATE OF SMAUEL FEDERBUSH

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (~~GERMAN~~) MAIL

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) 1942 through
1948, and 1959.

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 30th day of September , 1974 , she served the within
Notice of Decision (or Determination) by (~~registered~~) mail upon Estate of Samuel
Federbush, Harry Federbush,
et ano, c/o Jerome G. Futerman, 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: Estate of Samuel Federbush
Harry Federbush, et ano, Executors
c/o Jerome G. Futerman, C.P.A.
1301 6th Avenue
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

30th day of September , 1974

Janet Mack

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF SAMUEL FEDERBUSH

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

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) 1942 through
1948, and 1959.

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 30th day of September , 1974 , she served the within
Notice of Decision (or Determination) by (~~certified~~) mail upon Jerome G. Futerman,
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: Jerome G. Futerman, C.P.A.
1301 6th Avenue
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

30th day of September , 1974

Janet Maed

Martha Funaro

STATE OF NEW YORK
Department of Taxation and Finance

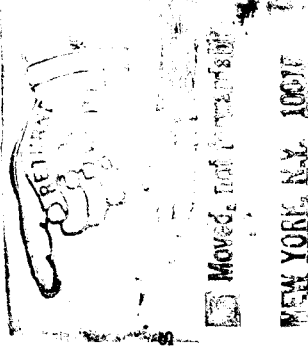
STATE CAMPUS

ALBANY, N. Y. 12227

1301 65 Ave.

(Manhattan phone book)

Estate of Samuel Federbush
Harry Federbush, et ano., Executors
c/o Jerome G. Futerman, C.P.A.
386 Park Avenue South
New York, New York 10016

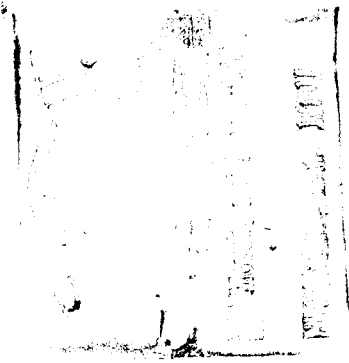


Rigel H. Wright

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

**STATE CAMPUS
ALBANY, N. Y. 12227**

**Jerome G. Fyterman, C.P.A.
386 Park Avenue South
New York, New York 10016**



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF SAMUEL FEDERBUSH

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) 1942 through
1948, and 1959.

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

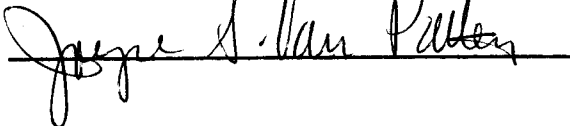
State of New York
County of Albany

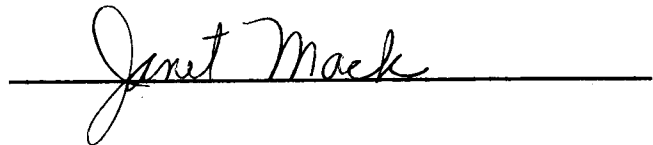
JANET MACK, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 23rd day of September, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon ESTATE OF SAMUEL
FEDERBUSH
(See Below) (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Estate of Samuel Federbush
Harry Federbush, et ano., Executors
c/o Jerome G. Futerman, C.P.A.
386 Park Avenue South
New York, New York 10016
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 September, 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF SAMUEL FEDERBUSH

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) 1942 through
1948, and 1959.

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

State of New York
County of Albany

JANET MACK, 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 September, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon JEROME G. FUTERMAN, CPA

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

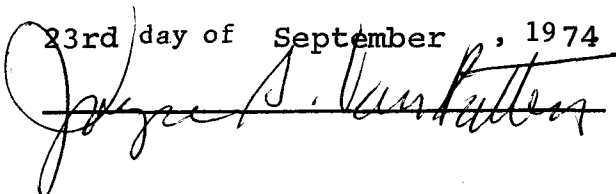
Jerome G. Futerman, C.P.A.
386 Park Avenue South
New York, New York 10016

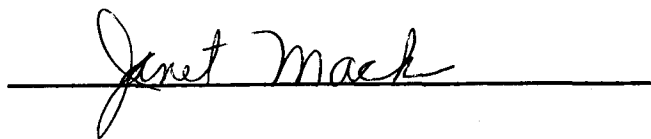
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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 September, 1974







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
September 23, 1974

Estate of Samuel Federbush
Harry Federbush, et ano., Executors
c/o Jerome G. Futerman, C.P.A.
386 Park Avenue South
New York, New York 10016

Dear Mr. Federbush:

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

Please take further notice that pursuant to
Section(s) 375 of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **90 days**
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,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ESTATE OF SAMUEL FEDERBUSH	:	DETERMINATION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 16 of the Tax Law for	:	
the Years 1942 through 1948, and 1959.	:	

Applicant, Estate of Samuel Federbush, filed an application for a redetermination of a deficiency or for refund of personal income tax under Article 16 of the Tax Law for the years 1942 through 1948, and 1959. (Assessment Nos. A-893214; A-893215; A-893216; A-824459; A-824460; SIB-671; SIB-672; 5083795). A formal hearing was held at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on January 20, 1971, before Lawrence A. Newman, Hearing Officer. The applicant was represented by Jerome G. Futerman, C.P.A. The Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of counsel).

ISSUE

The issue in this case is whether the State Tax Commission is bound by the results of an audit performed by agents of the Internal Revenue Service in arriving at the amount of additional personal income tax due.

FINDINGS OF FACT

1. Taxpayer, Samuel Federbush, has filed New York State personal income tax returns for the years 1942 through 1948, and 1959. Samuel Federbush is now deceased.

2. Samuel Federbush and four other stockholders of the Federbush Corporation embezzled funds of said corporation to their own accounts in the years 1943 through 1946. The amount of the total funds diverted, as determined by the New York State audit was \$706,841.98. Samuel Federbush's share, for New York State personal income tax purposes, was \$109,642.27. The Internal Revenue Service determined that the total funds diverted from the Federbush Corporation was \$672,602.96. Samuel Federbush's share for Federal income tax purposes was \$73,642.27.

3. The audits performed by the Internal Revenue Service and the State of New York were independent of one another. The Federal audit was based solely on identifiable deposits in Samuel Federbush's bank accounts. The audit performed by the State of New York went beyond actual identified deposits and assessed an additional \$36,000.00 representing personal expenditures likely attributable to the embezzled funds from the Federbush Corporation.

4. The total amount of tax, penalty and interest due for the years 1942 through 1948 came to \$15,961.82. Taxpayer, Samuel Federbush, paid in to the State of New York \$23,150.00. A refund in the amount of \$7,188.18 plus interest was authorized on August 5, 1964 and a check representing the aforesaid amount was subsequently issued. This check was negotiated in due course by the taxpayer or one of his representatives.

CONCLUSIONS OF LAW

A. That the State Tax Commission is not bound to accept the results of an audit performed by agents of the Internal Revenue Service in determining the amount of additional New York

State personal income tax due as a result of the diversion of corporate funds by Samuel Federbush and others.

B. That since the applicant, Estate of Samuel Federbush, failed to submit sufficient evidence to establish to the satisfaction of the State Tax Commission that the audit conducted, for New York State purposes, was improper and the additional personal income tax assessed was erroneous, said audit and corresponding assessments must be held to have properly reflected Samuel Federbush's income for the years 1942 through 1948.

C. That since the applicant, Estate of Samuel Federbush, failed to submit sufficient evidence relating to a claimed deduction for repayment of a judgment made on the 1959 New York State personal income tax return filed by Samuel Federbush, said deduction was properly disallowed.

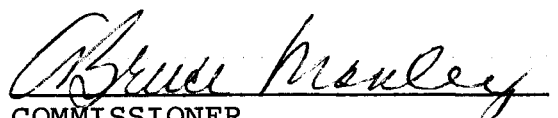
DETERMINATION

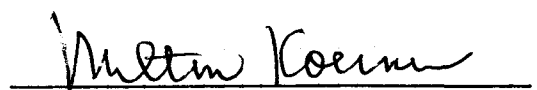
That the applications of the Estate of Samuel Federbush are in all respects denied.

DATED: Albany, New York
September 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER