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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MARY P. JACKSON

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) 1964.

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 6th day of March, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Mary P.

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

Mrs. Mary P. Jackson
168 Crescent Avenue
Buffalo, New York 14214

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

6th day of March, 1974

Myel G. Wright

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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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 6th day of March, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Magavern, Magavern, Lowe & Beilewech, Esqs. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Magavern, Magavern, Lowe & Beilewech, Esqs.
900 Prudential Building
Buffalo, New York 14202
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

6th day of March, 1974.

Ngel Wright

Martha Funaro



STATE OF NEW YORK .
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION
Mario A. Procaccino
~~MEMBER EX OFFICIO PRESIDENT~~
A. BRUCE MANLEY
MILTON KOERNER

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
March 6, 1974

Mrs. Mary P. Jackson
168 Crescent Avenue
Buffalo, New York 14214

Dear Mrs. Jackson:

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,

EDWARD ROOK
~~XXXXXXXXXXXXXXXXXXXX~~
Secretary, State Tax Commission

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
	:	
MARY P. JACKSON	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1964.	:	
	:	
	:	

Mary P. Jackson, petitioned for a redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1964.

A formal hearing was held at the offices of the State Tax Commission, Buffalo, New York on May 18, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Magavern, Magavern, Lowe and Beilewich, and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Were two notes held by the taxpayer in 1964 valid debts and did they become worthless in 1964?

FINDINGS OF FACT

1. Petitioner, Mary P. Jackson, timely filed a New York State income tax return for the year 1964.
2. A Notice of Determination of deficiency in income tax for the year 1964 was issued on March 27, 1967, against Mary P. Jackson, under File No. 26134442.

3. The taxpayer petitioned for redetermination of the deficiency.

4. The taxpayer's daughter, Mary, was for a period of time married to John G. Flanagan. Mary and John G. Flanagan were legally divorced on October 7, 1963.

5. In 1958, John G. Flanagan formed the Flanagan Supply Company of Phoenix, Arizona. On August 1, 1958, taxpayer loaned John G. Flanagan the sum of \$10,000.00 on his demand note at 3% interest. The taxpayer always considered the amount to be a loan to John G. Flanagan and at all times fully anticipated eventual repayment.

6. Flanagan Supply Company experienced financial difficulties during its existence and was forced to borrow substantial sums of money to continue its operation. Eventually in July, 1961, the shareholders of Flanagan Supply Company elected to liquidate the corporation.

7. During the period from 1958 to 1961, John G. Flanagan had invested substantial amounts of money into the Flanagan Supply Company, part of which was from the proceeds of a \$15,000.00 loan to John G. Flanagan from the Valley National Bank of Phoenix, Arizona. The term of the bank loan was renewed periodically until August, 1964. In order to obtain the personal loan from the Valley National Bank certain securities belonging to Mary Flanagan were pledged as collateral.

8. When the bank loan was renewed by the bank on July 13, 1964, it was evidenced by a note payable to Valley National Bank of Arizona signed only by John G. Flanagan in the amount of \$15,000.00. Although Mary Flanagan and John G. Flanagan were legally divorced at the time of the July 13, 1964 renewal note, the Valley National Bank continued to hold the securities of the former Mrs. Flanagan as collateral for the loan.

9. On August 3, 1964, taxpayer paid the Valley National Bank the sum of \$15,000.00 plus interest and received an assignment of the bank's note and filed the collateral securities of her daughter.

10. At the time of the purchase of the bank's note, taxpayer fully expected eventual repayment of the total sum owing. During the fall of 1964, taxpayer directly and through her daughter, Mary, made repeated demands for payment of the July 13, 1964, note for \$15,000.00 to the bank and also the note for \$10,000.00 of August 1, 1958, payable to her.

11. John G. Flanagan refused said demands for payment and told taxpayer that it would not do her any good to sue him on the notes since he did not have sufficient assets to pay the notes. At approximately this same time, John G. Flanagan ceased making alimony and child support payments to Mary Flanagan.

12. Taxpayer sought the advice of her attorney regarding suit for collection, and he advised her that she should not and need not incur additional legal expenses in a useless gesture; that if Mr. Flanagan did receive any assets in the future, these

should and would be used for child support.

13. Until that time, she allegedly considered the debt to be a loan of money and anticipated eventual repayment. After the discussions with her attorney, she concluded that a collection suit would be a waste of money and a useless gesture.

14. The Notice of Deficiency and petition were directed to whether the \$15,000.00 note was a long-term capital loss, but at the hearing the taxpayer also submitted evidence of the \$10,000.00 note on the same question of capital loss and moved to conform the pleadings to the proof. This motion was granted.

CONCLUSIONS OF LAW

A. The taxpayer's transactions on the notes were family transactions with John G. Flanagan, the taxpayer's son-in-law. The transactions were not deductible losses.

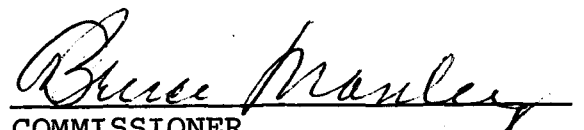
B. The purchase of the \$15,000.00 collateral note by the taxpayer was in effect a gift to her daughter and it was not a capital loss.

C. The petition of the taxpayer is denied. The deficiency in income tax against the taxpayer for the year 1964 is sustained.

DATED: Albany, New York
March 6, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER

AD 32 (6-73) 250M

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS
ALBANY, N. Y. 12227

Mrs. Mary P. Jackson

168 Crescent Avenue

Buffalo, New York 14214

CERTIFIED

No. 254108

MAIL

Delivered

Handwritten signature and initials

MEMORANDUM

TO: Mr. Gabriel DiCerbo, Chief
Review Unit
Income Tax Bureau
Room 104, Building #8

DATE: 3/28/74

SOCIAL SECURITY NO.

FROM: *L. Robert Leiner*
Hearing Unit
Room 214A, Building #9

111-36-3396

RE: *MARY P. JACKSON*

Please advise as to the last known address for the above named taxpayer.

L. Robert Leiner
HEARING OFFICER *mf*

Taxpayer's last known address is:

*168 Crescent Ave.
Buffalo, N.Y. 14214*

1970 return

No record of filing 1971 & 1972

Joellner 4-3-74

RECEIVED
NEW YORK STATE
INCOME TAX BUREAU
MAR 28 1974
REVIEW UNIT
ALBANY OFFICE



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12226

STATE TAX COMMISSION
Mario A. Procaccino
~~XXXXXXXXXXXX~~ ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

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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,

Edward Rook
EDWARD ROOK
~~XXXXXXXXXXXX~~
Secretary, State Tax Commission

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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MARY P. JACKSON	:	DECISION
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or for Refund of Personal Income Tax	:	
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CONCLUSIONS OF LAW

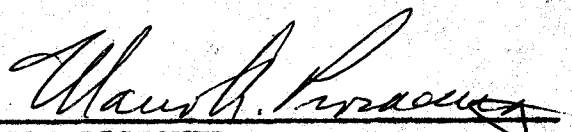
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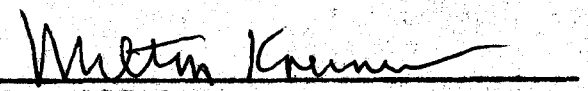
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