

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PATRICIA C. SHAY

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year(s) 1966, 1967
and 1968.

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 19th day of August, 1975, she served the within
Notice of Decision (~~xx Determination~~) by (certified) mail upon Patricia C. Shay

(~~representative of~~) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Miss Patricia C. Shay
325 West Summit Street
Mohnton, Pennsylvania

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~~
~~xx~~ 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

19th day of August, 1975.

Mary Stapp

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PATRICIA C. SHAY

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) 1966, 1967
and 1968.

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 19th day of August, 1975, she served the within
Notice of Decision (~~on Personal Income~~) by (certified) mail upon **Burton C. Beal, Esq.**

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: **Burton C. Beal, Esq.**
25 West 43rd Street
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

19th day of August, 1975.

Mary G. Hoff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
James H. Tully, Jr.
~~Commissioner~~, 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
August 19, 1975

Miss Patricia C. Shay
325 West Summit Street
Mohnton, Pennsylvania

Dear Mr. Shay:

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

Please take further notice that pursuant to
Section ~~(a)~~ **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,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
PATRICIA C. SHAY	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Years	:	
1966, 1967 and 1968.	:	

Patricia C. Shay, 325 West Summit Street, Mohnton, Pennsylvania, filed a petition under section 689 of the Tax Law for a redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the years 1966, 1967 and 1968.

Said deficiency was asserted by notice dated September 27, 1971, under file number 8-16209917 and is in the amount of \$9,851.48 with interest of \$1,935.83 and negligence penalty of \$492.57 for a total of \$12,279.88.

A hearing was duly held at the offices of the State Tax Commission at 80 Centre Street, New York, New York, on March 29, 1973, and at Two World Trade Center, New York, New York, on October 23, 1974, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Burton C. Beal, Esq. The Income Tax

Bureau was represented by Saul Heckelman, Esq., appearing by Solomon Sies, Esq. and Alexander Weiss, Esq.

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

ISSUE

The issue in the case is whether certain sums received by petitioner were income to her or mere gifts free from tax.

FINDINGS OF FACT

1. Petitioner resided at 85-15 Main Street, Jamaica, Queens, New York, during the years here in question. She had a child by a previous marriage.

2. Petitioner was the sole owner of Pat Shay Originals, Inc. which did business at 85-15 Main Street, Jamaica, Queens, New York under the trade name "Rococo."

3. Petitioner also owned another corporation which did business under the name, first of "Calico" and then of "Frou-Frou" on West Fourth Street in the Greenwich Village section of New York.

4. Deposits were made to petitioner's personal checking account in each year of from \$11,000.00 to \$18,000.00. Payments were made to her individual brokerage account of from \$300.00 to

\$800.00 in each year. In addition, the books of her two business corporations showed the receipt of new loans in each year of from \$7,000.00 to \$18,000.00.

5. Petitioner was, during the years in question, living in her Queens apartment with a Mr. Joseph Zachary, a married man and a resident of New Jersey who also helped her as an accountant in her business.

6. The documentary evidence in this case is unequivocal that the sums here in question were furnished entirely by Mr. Zachary. While there are allegations that these sums were received by petitioner as earnings, both her own appearance and demeanor and her own uncontradicted testimony are completely convincing to the effect that the sums were in fact gifts.

CONCLUSIONS OF LAW

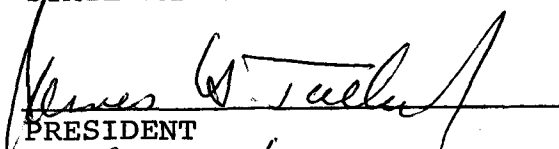
The sums here in issue were gifts to petitioner and are not taxable.

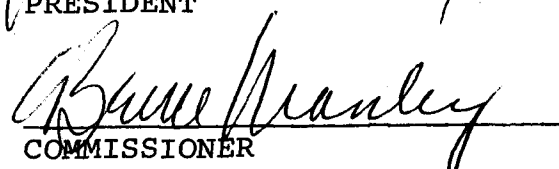
The deficiency is erroneous in its entirety and is cancelled.

DATED: Albany, New York

August 19, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER