

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ABRAHAM D. LEVY,  
Public Administrator of Bronx County  
as Administrator of the Estate of  
GLADYS WEYN :  
For a Redetermination of a Deficiency or  
a Refund of Personal Income :  
Taxes under Article 22 of the  
Tax Law for the Year(s) 1968 through :  
1970.

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

State of New York  
County of Albany

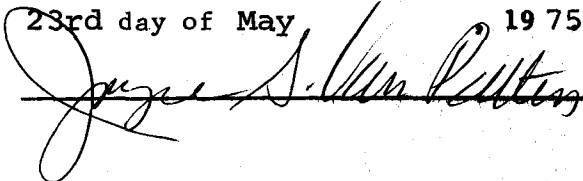
JANET MACK , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 23rd day of May , 1975 , she served the within  
Notice of Decision ~~(for Redetermination)~~ by (certified) mail upon Howard Simowitz, C.P.A.

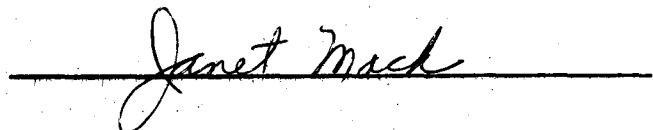
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Howard Simowitz, C.P.A.  
Wind & Wind  
1 Pennsylvania Plaza  
New York, New York 10001  
and by depositing same enclosed in a postpaid properly 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 May 1975





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ABRAHAM D. LEVY,  
Public Administrator of Bronx County  
as Administrator of the Estate of  
GLADYS WEYN  
For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 of the  
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County of Albany

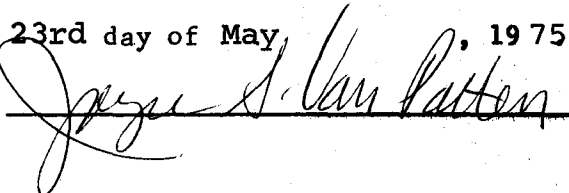
JANET MACK, being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 23rd day of May, 1975, she served the within  
Notice of Decision ~~(on Determination)~~ by (certified) mail upon Abraham D. Levy

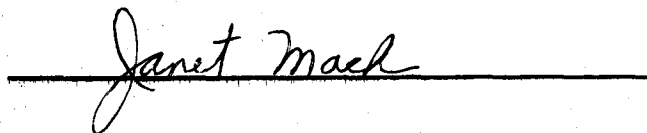
~~(representative of)~~ the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Abraham D. Levy  
Public Administrator of Bronx County  
851 Grand Concourse  
Bronx, New York 10451  
and by depositing same enclosed 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)~~  
~~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 May, 1975

  
Joyce S. Van Patten

  
Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
**James H. Tully, Jr.**  
~~SECRETARY~~ 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  
May 23, 1975

Mr. Abraham D. Levy  
Public Administrator of Bronx County  
851 Grand Concourse  
Bronx, New York 10451

Dear Mr. Levy:

Please take notice of the **DECISION (Gladys Weyn)**  
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

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ABRAHAM D. LEVY,	:	DECISION
Public Administrator of Bronx County	:	
as administrator of the Estate of	:	
GLADYS WEYN	:	
for a Redetermination of a Deficiency	:	
or for refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Years 1968 through 1970.	:	

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Abraham D. Levy, Public Administrator of Bronx County, as administrator of the Estate of Gladys Weyn, filed a petition under section 689 of the Tax Law for the redetermination of a deficiency asserted under a notice dated November 29, 1971, in the amount of \$1,165.15 plus interest of \$118.92 for a total of \$1,284.07 in personal income tax under Article 22 of the Tax Law for the years 1968 through 1970.

A hearing was duly held on August 8, 1974, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner was represented by Howard Simowitz, C.P.A. of Wind and Wind. The Income Tax Bureau was represented by Saul Heckelman, Esq., appearing by James Scott, Esq., of counsel.

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

ISSUE

The issue in this case is whether a certain amount of cash found to be in safe deposit boxes at the death of petitioner constitutes income to petitioner.

FINDINGS OF FACT

1. Gladys Weyn was born around 1905 as Mary Biza and was also known as Gladys Biza. Her parents died in the 1940's and she participated in the distribution of assets from their estates. She married Phillip Froeder, who operated a tavern. This ended in divorce around 1935. She then married John E. Weyn. Mr. Weyn died on June 13, 1964. He had assets and filed a Federal estate tax return.

2. Gladys Weyn, just prior to her death, had resided at 2800 Heath Avenue, Bronx, New York. She suffered from cataracts requiring surgery which left her with poor eyesight. She had a history of heart trouble and had congestive heart failure on April 30, 1970 and May 11, 1970. She died on November 22, 1970, of congestive heart failure. There is evidence that she had no job in the several years prior to her death.

3. The amount of \$24,570.00 was found in two separate safe deposit boxes at the Dollar Savings Bank, in the Bronx, and the Peoples Savings Bank in Yonkers, New York. She also had \$70,000.00 in marketable securities and \$42,000.00 in savings accounts.

4. Gladys Weyn filed income tax returns for the years in question, 1968, 1969 and 1970. The income reported consisted entirely of interest and dividends.

5. The deficiency in issue finds unreported income of \$8,424.00 in 1968, \$8,424.00 in 1969 and \$7,722.00 in 1970 for a total additional income of \$24,570.00.

CONCLUSIONS OF LAW

The mere existence of a cash horde is not evidence of the receipt of income. Petitioner has shown that there were many likely sources of gifts or other nontaxable income. There is no evidence that there is any likely source of unreported taxable income either in the years under review or in any other year.

The deficiency is erroneous in its entirety and is cancelled.

DATED: Albany, New York  
May 23, 1975

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER