

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
MURRAY ZANGEN, As Administrator Of:  
THE ESTATE OF TOBIAS ZANGEN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund  
of Personal Income & Unincorporated Business  
Taxes under Article(s) 22 & 23 of the  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1967, 1968 and 1969.

State of New York  
County of Albany

Bruce Batchelor , 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 12th day of January , 1977, she served the within  
Notice of Decision by (certified) mail upon Murray Zangen, As  
Administrator of the Estate of Tobias Zangen  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Murray Zangen, Administrator  
The Estate of Tobias Zangen  
784 Columbus 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative  
of the) 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

12th day of January , 1977.

Bruce Batchelor

Janet Buck

STATE OF NEW YORK  
STATE TAX COMMISSION

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Tax Law for the Year(s) ~~xxx~~ Period(s) :  
1967, 1968 and 1969.

State of New York  
County of Albany

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she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 12th day of January , 1977 , she served the within  
Notice of Decision by (certified) mail upon Victor L. Carpentier  
and Louis A. Navarro, Esqs. (representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Victor L. Carpentier  
and Louis A. Navarro, Esqs.  
c/o Sakona & Ginsberg  
159-09 Hillside Avenue  
Jamaica, NY 11432  
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
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last known address of the (representative of the) petitioner.

Sworn to before me this

12th day of January , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

January 12, 1977

TELEPHONE: (518) **457-1723**

**Murray Zangen, Administrator  
The Estate of Tobias Zangen  
784 Columbus Avenue  
New York, New York**

**Dear Mr. Zangen:**

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

Please take further notice that pursuant to  
Section(s) **690 & 722** 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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

**Paul B. Coburn**  
**Supervising Tax**  
**Hearing Officer**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
MURRAY ZANGEN, As Administrator Of :  
THE ESTATE OF TOBIAS ZANGEN : DECISION  
for Redetermination of a Deficiency or :  
for Refund of Personal Income and :  
Unincorporated Business Taxes under :  
Articles 22 and 23 of the Tax Law for :  
the Years 1967, 1968 and 1969. :

Said deficiency was asserted by notice dated July 26, 1971 under valid consent and fixing the period of limitation, and is in the amount of \$12,513.20, plus interest of \$1,368.64, for a total \$13,881.84.

A formal hearing was held on July 13, 1976, at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer. The petitioner appeared by Victor L. Carpentier, Esq. of Sakona & Ginsberg and by Louis A. Navarro, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Solomon Sies, Esq. of counsel).

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

### ISSUES

I. Whether certain cash and diamonds found in a safe deposit box are income to the deceased taxpayer.

II. Whether said deceased taxpayer was engaged in an unincorporated business as a diamond cleaver and dealer.

### FINDINGS OF FACT

1. Mr. Tobias Zangen came to New York State from Belgium in 1942. He lived at 974 46th Street, Brooklyn, New York with his wife and two sons in a three and one-half room apartment. His rent was \$61.10 a month in 1969. His earnings prior to 1967 were generally less than \$6,000.00. His wife worked on a part-time basis.

2. Until 1967, Mr. Zangen worked independently as a diamond cleaver and diamond dealer. He was a member of the Diamond Dealer's Club located at 30 West 47th Street, Manhattan. His tax returns showed a closing inventory for 1967 of \$8,744.48, for 1968 of \$5,500.00 and for 1969 of \$5,500.00.

3. In 1967, Mr. Zangen began work exclusively for E. I. DuPont & Company, whose principal office is located at Wilmington, Delaware. His duties were to cleave raw diamonds into narrow slabs to be used as knives in cancer research. In a letter to Mr. Zangen, DuPont had stressed the significance of Mr. Zangen's work for medical research and for DuPont's business in providing "high quality cleavings of unbelievable uniformity and yield per carat with minimum loss...." He performed this service in New York and

reported by mail to DuPont's Wilmington office. Mr. Zangen was well compensated for this service. His compensation was not reduced by withholding for either social security or income taxes.

4. Mr. Zangen had had stock brokerage cash and margin accounts which had been very active. All income from this source had been properly reported in his tax returns. Mr. Zangen had received reparations from the German government. Some income reported on Mr. Zangen's returns cannot be identified.

5. In the late 1960's, Mr. Zangen was receiving small amounts of cash regularly from his son, Murray Zangen, in repayment of sums expended for the son's education.

6. Mr. Zangen died on October 9, 1969.

7. A safe deposit box belonging to Mr. Zangen was opened on December 31, 1969. This box contained an amount of Polish currency which pre-dated World War II, the amount of \$22,542.00 in United States currency all wrapped in rubber bands which had deteriorated because of age, 100 shares of American Motors Corp. stock, a \$50 Israel Bond, and a number of packets of small chips of diamonds, appraised at \$32,938.00.

8. The deficiency under review is based on the assertion that the cash found in the vault is personal income to petitioner as prorated over the three years 1967, 1968 and 1969; that the value of the diamond chips found in the vault is less the amount of opening inventory reported on the return as personal income to petitioner in 1969; and that petitioner was conducting an unincorporated business

and received as the income of such business the amounts paid to him by DuPont, and the additional amounts for which he is also assessed for personal income tax.

CONCLUSIONS OF LAW

A. That the mere existence of cash or property in a safe deposit box does not of itself imply that a taxpayer received taxable income in a particular year which was not reported on his returns. While a taxpayer at times may have a duty to explain such deposits, in this case no explanation is possible. It is, furthermore, entirely likely that the sums here involved were savings out of reported income in earlier years.

B. That Tobias Zangen was clearly an independent contractor during the years in question and not an employee of DuPont. His income as reported on Schedule "C" in his Federal income tax returns was subject to unincorporated business tax.

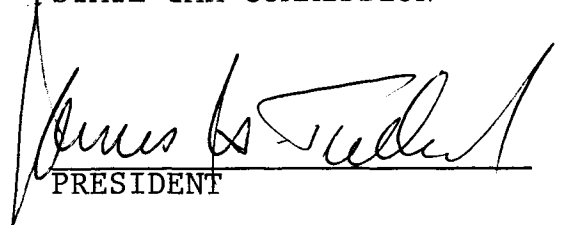
C. That the deficiency for personal income tax is erroneous in its entirety and is cancelled.

D. That the deficiency for unincorporated business tax is erroneous in part and is recomputed to be \$3,142.17 plus such interest as may be lawfully due, that the Income Tax Bureau is hereby directed

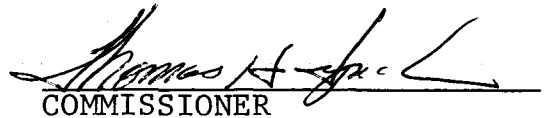
to accordingly modify the Notice of Deficiency issued July 26, 1971, and, that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York  
January 12, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
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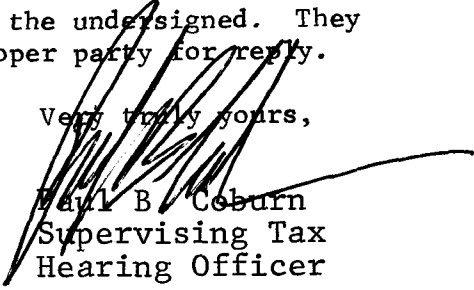
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Very truly yours,

  
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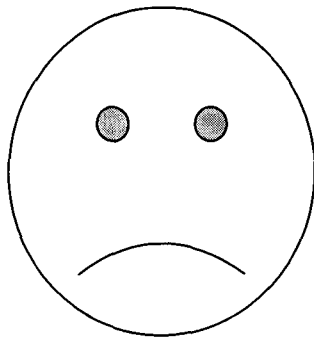
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# CORRECTION FOLLOWS



*NOTE:* THE FOLLOWING  
DOCUMENT(S) ARE BEING REFILMED  
TO ENSURE CLARITY

PHOTO MICROGRAPHICS INC.

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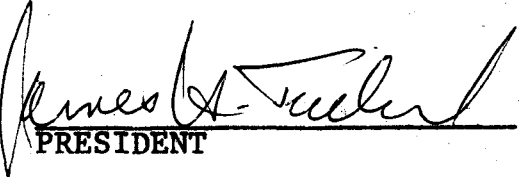
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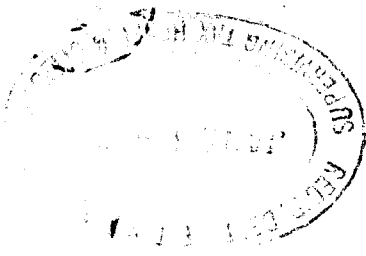
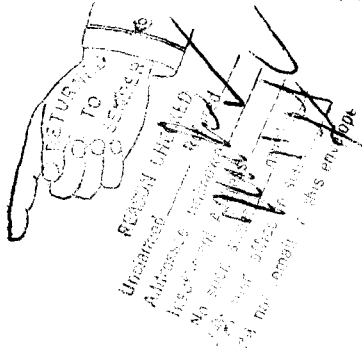
## STATE OF NEW YORK

Department of Taxation and Finance

## TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227



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103 Fredrick  
Mack, NY 10960