

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROSE HURTIS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article (ss) 22 of the :  
Tax Law for the Year (ss) or Period (ss) :  
1961

State of New York  
County of Albany

John Huhn, 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 14th day of February, 1978, she served the within

Notice of Decision by (certified) mail upon Rose Hurtis

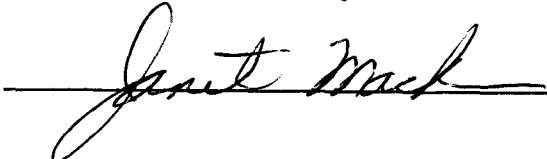
~~XXXXXXXXXXXXXXXXXXXX~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Ms. Rose Hurtis  
3030 Brighton 12th Street  
Brooklyn, New York

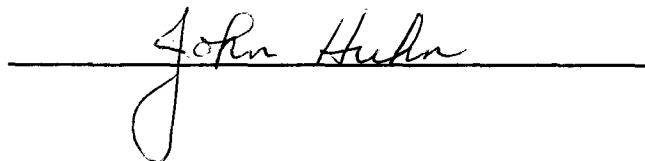
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

14th day of February, 1978.







STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

February 14, 1978

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

Ms. Rose Hurtis  
3030 Brighton 12th Street  
Brooklyn, New York

Dear Ms. Hurtis:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ~~201~~ **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

JOSEPH CHIRIYATT  
HEARING OFFICER

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Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ROSE HURTIS	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1961.	:	

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Petitioner, Rose Hurtis, 3030 Brighton 12th Street, Brooklyn, New York, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1961 (File No. 01278).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 22, 1977 at 2:45 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioner, Rose Hurtis, was the sole shareholder of Edgemere Land Corp. when said corporation was liquidated in the year 1961, and whether she was liable for New York State income tax on the gain realized as a result of such liquidation.

FINDINGS OF FACT

1. The petitioner, Rose Hurtis, timely filed a New York State income tax resident return for the tax year 1961.

2. On January 4, 1965, the Income Tax Bureau issued a Notice of Deficiency in the sum of \$1,125.49 against petitioner, based on a Statement of Audit Changes which held that she had received a taxable gain on the liquidation of Edgemere Land Corp. ("Edgemere") and had failed to report said gain.

3. On August 17, 1965, petitioner submitted information which resulted in a proposed reduction of the deficiency to \$660.61, plus applicable interest.

4. The petitioner signed a document dated December 4, 1958, in which she pledged the total outstanding stock of Edgemere and another corporation, Cinderella Park, Inc. ("Cinderella") as security for a promissory note payable by her to two of the previous owners of said stock. The document also stated that said stock was about to be sold to petitioner. No other documentation was submitted pertaining to the ownership of said stock.

5. Petitioner testified that her son was instrumental in the acquisition of Edgemere and Cinderella and that he had managed and operated both corporations. She also contended that her son was considered owner of the corporations even though the shares of stock were originally in her name. Petitioner alleged that the stock was transferred to her son before his death in 1960 and that she was, therefore, not liable for any tax due on the gain realized from the liquidation of Edgemere which took place in 1961.

#### CONCLUSIONS OF LAW

A. That petitioner, Rose Hurtis, failed to sustain the burden of proof necessary to show that she was not the sole shareholder of Edgemere at the time of its liquidation in 1961. Therefore, the gain realized from the aforesaid liquidation is includable in petitioner's 1961 New York adjusted gross income, within the meaning and intent of section 612(a) of the Tax Law.

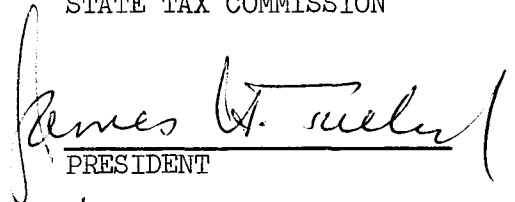
B. That the correct increase in petitioner's New York income is \$9,778.08 rather than the \$12,908.09 which was used in computing the tax due in the Notice of Deficiency, and that the correct additional income tax due is \$660.61, plus all interest found legally owing.

C. That the petition of Rose Hurtis is granted to the extent set forth in Conclusions of Law "B," above, and is in all other respects denied.

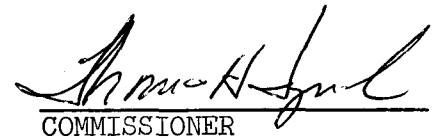
DATED: Albany, New York

February 14, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER