

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Charles F. Golding :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Gift Tax :

under Article 26-A of the Tax Law

for the Period 6/1/72-8/31/72. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon Charles F. Golding, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Charles F. Golding

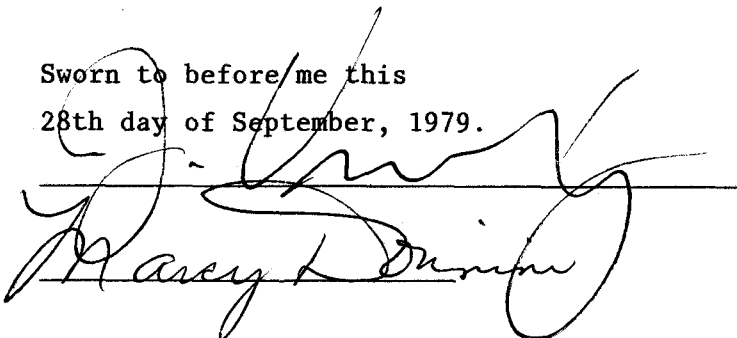
226 E. 32nd St.

Brooklyn, NY 11226

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
28th day of September, 1979.



Nancy L. Quinn

STATE OF NEW YORK  
STATE TAX COMMISSION

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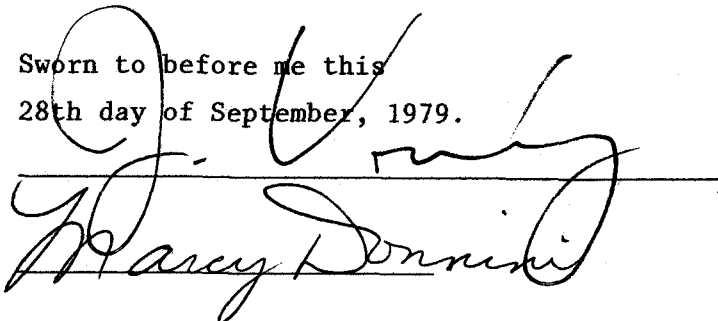
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Decision by certified mail upon Francis E. Dorn the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Francis E. Dorn  
32 Court St.  
Brooklyn, NY 11201

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  
28th day of September, 1979.



Harry Donnick



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

STATE TAX COMMISSION  
JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

JOHN J. SOLLECITO  
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

Charles F. Golding  
226 E. 32nd St.  
Brooklyn, NY 11226

Dear Mr. Golding:

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(s) 1007(b) 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,

A handwritten signature in cursive script, appearing to read "Robert D. Whelley".

cc: Petitioner's Representative  
Francis E. Dorn  
32 Court St.  
Brooklyn, NY 11201  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition  
of  
CHARLES F. GOLDING  
for Redetermination of a Deficiency or  
for Refund of Gift Tax under Article 26-A :  
of the Tax Law for the Quarter June 30,  
1972 :

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DECISION

Petitioner, Charles F. Golding, 226 East 32nd Street, Brooklyn, New York 11226, filed a petition for redetermination of a deficiency or for refund of gift tax under Article 26-A of the Tax Law for the quarter June 30, 1972 (File No. 10422).

A formal hearing was held before Harry Issler, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 29, 1977 at 9:15 A.M. Petitioner appeared by Francis E. Dorn, Esq. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether a transfer of 300 shares of stock by petitioner on June 20, 1972 to his sister, constitutes a gift subject to gift tax.

FINDINGS OF FACT

1. Petitioner, Charles F. Golding, transferred 300 shares of stock to his sister, Cecelia Crowe, on June 20, 1972. Petitioner was then eighty-five years of age and his sister was seventy-nine years of age.

2. A Statement of Audit Changes and Notice of Deficiency were issued against petitioner for the period in question, due to his failure to file or pay the gift tax for the aforementioned period. Said Statement and Notice assessed a total basic tax due of \$924.65. The Statement of Audit Changes was

later amended to reflect a total tax due of \$637.88, plus penalty of \$159.47 and interest of \$56.94, for a total due of \$854.29.

3. Petitioner duly filed a petition for redetermination for the period in question.

4. Petitioner made the aforementioned transfer because of his advanced age and because of his own feeling that he could no longer efficiently handle his affairs. This transfer was made pursuant to an agreement with his sister, Mrs. Crowe, whereby all dividends which were paid on said shares of stock would annually be transferred to petitioner, irrespective of the fact that nominal ownership would remain in his sister's name.

5. Since the date of the transfer, said dividends have, in fact, been paid annually to petitioner by his sister.

6. Subsequent to the time of the transfer, petitioner made a hand-written document, purporting to be a Will, pursuant to which he left ownership of said shares of stock to his sister upon his death.

CONCLUSIONS OF LAW

A. That the transfer of stock from petitioner, Charles F. Golding, to his sister constituted the transfer of property by gift within the meaning of section 1001 of the Tax Law and, thus, is subject to gift tax.

B. That the petition of Charles F. Golding is denied and the Notice of Deficiency is hereby sustained.

DATED: Albany, New York

SEP 28 1979

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER