

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THE ESTATE OF LAWRENCE A. HYMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
~~or for a Refund of a Deficiency or~~ a Refund
of Gift
Taxes under Article ~~(s)~~ 26-A of the
Tax Law for the Year ~~(s)~~ or Period ~~(s)~~ 1972.:

State of New York
County of Albany

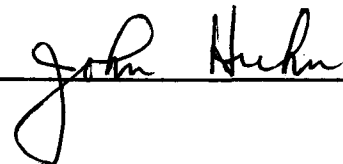
John Huhn, being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 13th day of December, 1978, ~~he~~ served the within
Notice of Decision by (certified) mail upon The Estate of
Lawrence A. Hyman, c/o Casper and Nehrbas
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: The Estate of Lawrence A. Hyman
c/o Casper and Nehrbas
250 West 57th Street
New York, New York 10019
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)~~
~~of the~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

13th day of December, 1978





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THE ESTATE OF LAWRENCE A. HYMAN

For a Redetermination of a Deficiency or
~~XXXXXX a Refund~~
of Gift
Taxes under Article (x) 26-A of the
Tax Law for the Year (s) ~~xxxx~~ Period (x) 1972.:

AFFIDAVIT OF MAILING

State of New York
County of Albany

John Huhn, 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 13th day of December, 1978, he served the within
Notice of Decision by (certified) mail upon Montague Casper

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Montague Casper, Esq.
Casper & Nehrbas
250 West 57th Street
New York, New York 10019

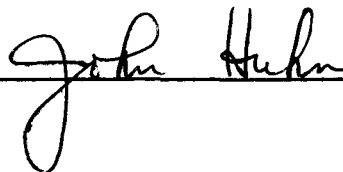
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

13th day of December, 1978.







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

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

December 13, 1978

**The Estate of Lawrence A. Hyman
c/o Casper and Nehrbas
250 West 57th Street
New York, New York 10019**


Gentlemen:

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 **(b) 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,


Michael Alexander
Supervising Tax
Hearing Officer

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
THE ESTATE OF LAWRENCE A. HYMAN : DECISION
for Redetermination of a Deficiency or :
for Refund of Gift Tax under Article 26-A :
of the Tax Law for the Year 1972. :
:

Petitioner, the Estate of Lawrence A. Hyman, c/o Casper and Nehrbas, 250 West 57th Street, New York, New York 10019, filed a petition for redetermination of a deficiency or for refund of gift tax under Article 26-A of the Tax Law for the year 1972 (File No. 11307).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 23, 1977 at 1:15 P.M. Petitioner appeared by Montague Casper, Esq. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether petitioner's New York State quarterly gift tax return was proper.

FINDINGS OF FACT

1. On November 6, 1975, the Miscellaneous Tax Bureau issued a Statement of Audit Changes for the quarter ending March of 1975 against petitioner, Lawrence A. Hyman. This was done on the grounds that "gifted property is revalued to appraised value of \$55,000.00, value of gift may not be reduced by amount of prior gifts." Accordingly, the Bureau issued a Notice of Deficiency in the amount of \$450.00, plus interest of \$95.63, for a total of \$545.63.

2. On November 14, 1972, the executor of the Estate of Lawrence A. Hyman filed a New York State resident quarterly gift tax return for the calendar quarter ending March 31, 1972 and paid a tax due thereon of \$345.00. In the computation, the amount of taxable gifts totaled \$23,000.00.

3. In 1968 through 1971, Lawrence A. Hyman (donor), made gifts to his daughter Joan, as well as to his grandson Douglas, of \$3,000.00 interest each in his 245 shares in Apartment 4-B, 1075 Park Avenue, New York, New York. In November of 1971, Lawrence Hyman had the apartment appraised, which appraisal amounted to \$50,000.00. The remaining interest (\$26,000.00) was transferred to his daughter and grandson. The completion of all documents and necessary approvals occurred in January of 1972. (It is noted that the gifts made in 1968 through 1971 did not specify what portion of the total value of the shares each "\$3,000.00 interest" represented).

4. Schedule "G" of the Federal Estate Tax Return of the Estate of Lawrence A. Hyman lists transfers made during the decedent's life, i.e., the gifts to his daughter Joan and to his grandson Douglas, citing the balance of the gift in 1972 to be \$26,000.00 (the value of the balance of the apartment's worth). Full details and documents were attached thereto. The Federal return for both the estate and the gift were accepted as filed.

CONCLUSIONS OF LAW

A. That at the time of the transfer at issue, section 1006 of the Tax Law provided that:

"A final federal determination that a transfer constitutes a taxable gift and of the value thereof shall also...determine the same issues for purposes of the tax under this Article, unless such final federal determination is shown by a preponderance of the evidence to be erroneous."

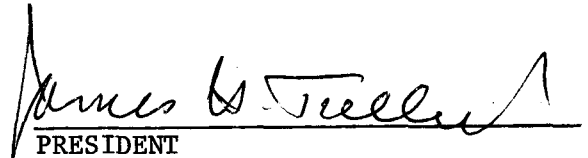
The evidence does not show that the Federal determination was erroneous; therefore, the quarterly gift tax return as filed by the Estate of Lawrence A. Hyman was in all respects proper.


B. That the petition of the Estate of Lawrence A. Hyman is granted and the Notice of Deficiency issued November 6, 1975 is cancelled.

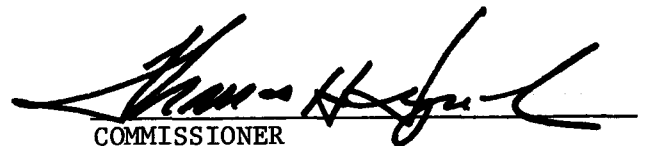
DATED: Albany, New York

December 13, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER