

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

Herzog & Co., Inc.

For a Redetermination of a Deficiency or  
a Refund of Stock Transfer  
Taxes under Article(s) 12 of the  
Tax Law for the (Year(s))

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

State of New York  
County of Albany

Martha Funaro , 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 4th day of January , 19 71, she served the within Notice of Decision (or Determination) by (certified) mail upon Herzog & Co., Inc.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Mr. John E. Herzog  
Herzog & Co., Inc.  
170 Broadway

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 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

4th day of January , 1971

*James S. Van Patten*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

*Herzog & Co. Inc.  
Misfiling Taxpayer  
Stock Transfer  
1971*

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(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert W. Taylor, Esq.  
40 Exchange Place  
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 Post Office Department within the State of New York.

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Sworn to before me this

4th day of January, 1971

*[Signature]*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
HERZOG & CO., INC.	:	DECISION
for a Hearing to Review a Determination	:	
of Stock Transfer Taxes due pursuant to	:	
Article 12 of the Tax Law	:	

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Herzog & Co., Inc. having filed an application pursuant to Section 279-a of the Tax Law for a hearing to review a determination of stock transfer tax due pursuant to Article 12 of the Tax Law and a hearing having been duly held on October 1, 1964, and the record having been duly examined and considered,

The State Tax Commission hereby

FINDS:

1. The sole issue herein is whether or not an alleged nominee was a "registered nominee" within the meaning of Tax Law Section 270-7 so that transfers to such nominee would be exempt from tax under Section 270-5(h) and 270-5(i) of the Tax Law and Regulation 20 NYCRR 445.1.

2. The determination under review, dated February 18, 1964, finds a tax due of \$976.58 on transfers during 1962 and 1963 by Herzog & Co., Inc. to Herzog & Co. - the latter being an unregistered nominee.

3. The taxpayer informed the Department of Taxation and Finance by letter dated March 20, 1962, that it thereby was registered "Herzog & Co." a general partnership as nominee. No other information was given.

4. Shortly after the receipt of the letter of March 20, 1962, an employee of the Department of Taxation and Finance visited with representatives of taxpayer and informed them that the letter would be rejected because it failed to set forth all necessary facts, that

no application from the nominee had been received and because the name of the proposed nominee was too similar to the name of the taxpayers.

5. The State Tax Commission at no time issued a certificate of registration to the taxpayer under Regulation 20 NYCRR 445.1(d).

Upon the foregoing findings and all the evidence in the case,  
The State Tax Commission hereby

DECIDES:

A. By necessary implication from regulation 20 NYCRR 445.1(d) a nominee is not registered with the State Tax Commission until a certificate is issued by the Commission and received by the corporate principle.

B. The transfers in question are taxable.

C. The determination of tax under notice dated February 18, 1964, is affirmed.

DATED: Albany, New York

*December 31, 1970*

STATE TAX COMMISSION

*Norman Gellman*

COMMISSIONER

*Bruce Mauley*

COMMISSIONER

*Milton Koenig*

COMMISSIONER