

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

HAROLD Z. KAPLAN

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))~~ Period

between 12/17/70 and 1/17/71

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

State of New York  
County of Albany

Lynn Wilson, 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 16th day of March, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon HAROLD Z. KAPLAN

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

wrapper addressed as follows: Harold Z. Kaplan  
69 West Washington, #2010  
Chicago, Illinois

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

16th day of March, 1972.

Rae Zimmerman

Lynn Wilson



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12226

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**DATED:** Albany, New York  
**March 16, 1972**

**Harold S. Kaplan**  
**69 West Washington, #2010**  
**Chicago, Illinois**

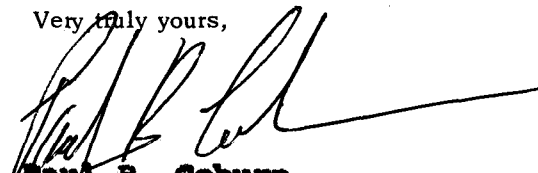
**Dear Mr. Kaplan:**

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

Please take further notice that pursuant to **section 279-a** of  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **90 days** after  
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed  
in accordance with this decision or concerning any other matter relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

  
**Paul B. Coburn**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
HAROLD Z. KAPLAN	:	DETERMINATION
for a Hearing to Review a Determination	:	
of Stock Transfer Tax due pursuant to	:	
Article 12 of the Tax Law for the period	:	
between 12/17/70 and 1/17/71.	:	

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Applicant, Harold Z. Kaplan, has filed an application for a hearing to review a determination of stock transfer tax due pursuant to Article 12 of the Tax Law for the period between 12/17/70 and 1/17/71. A formal hearing was scheduled before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Building 9, State Campus, Albany, New York for December 8, 1971, at 10:00 A.M. On December 2, 1971, petitioner advised the State Tax Commission in writing that he desired to waive a formal hearing and to submit the case to the State Tax Commission upon the entire record contained in the file. The State Tax Commission renders the following decision after due consideration of said record.

ISSUE

Is a sale of stock by a nonresident of New York State through the American Stock Exchange in New York City a transaction subject to the New York State stock transfer tax?

FINDINGS OF FACT

1. Harold Z. Kaplan was a resident and domiciliary of the State of Illinois during the year 1970. On December 10, 1970, while in Illinois, he entered an order with Dean Witter & Co. through

its Chicago, Illinois office to sell 100 shares of stock of Solitron Devices, Inc., a stock listed on the American Stock Exchange. The stock was owned by him and held in the "street name" by Dean Witter & Co. The sale was executed on the American Stock Exchange in New York City on December 10, 1970.

2. Dean Witter & Co. paid a New York State stock transfer tax in the sum of \$3.75 to the State Tax Commission on the aforesaid transaction. The payment was made through an appropriate stock clearing corporation. The payment of said tax was made by Dean Witter & Co. on behalf of applicant, Harold Z. Kaplan, and the amount of said tax was deducted from the proceeds of the sale paid to him.

3. On June 21, 1971, applicant, Harold Z. Kaplan, filed a claim for refund of New York State stock transfer tax paid on the aforesaid transaction.

4. On June 23, 1971, the Miscellaneous Tax Bureau denied applicant, Harold Z. Kaplan's claim for refund of the New York State stock transfer tax paid on the aforesaid transaction.

#### CONCLUSIONS OF LAW

A. That the sale of stock by a nonresident of New York State through the American Stock Exchange in New York City constitutes a transaction subject to the New York State stock transfer tax in accordance with the meaning and intent of section 270(1) of the Tax Law and NYCRR 440.1 and 440.2.

B. That, therefore, the sale of 100 shares of Solitron Devices, Inc. by applicant, Harold Z. Kaplan, through the American Stock

Exchange on December 10, 1970, constituted a transaction subject to the New York State stock transfer tax, even though he was a nonresident at the time of the sale.

C. That the application of Harold Z. Kaplan is denied and the denial of his claim for refund issued June 23, 1971, is sustained.

DATED: Albany, New York  
*March 16, 1972.*

STATE TAX COMMISSION

*Norman Gallivan*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Manley*  
\_\_\_\_\_  
COMMISSIONER

*Walter Kravitz*  
\_\_\_\_\_  
COMMISSIONER