

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

NATIONAL BANK OF DETROIT

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 21st day of February , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon National Bank
of Detroit (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: National Bank of Detroit
611 Woodward Avenue
Detroit, Michigan 48226

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

21st day of February , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A
STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 21, 1973

**National Bank of Detroit
611 Woodward Avenue
Detroit, Michigan 48226**

Gentlemen:

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

Please take further notice that pursuant to **section 279-a**
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,

Nigel G. Wright

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
NATIONAL BANK OF DETROIT,	:	
as trustee	:	DECISION
for a Hearing to review a Determination of	:	
Stock Transfer Taxes imposed pursuant to	:	
Article 12 of the Tax Law.	:	

The National Bank of Detroit as trustee of the Michigan Bell Telephone Company Second Pension Fund filed a claim dated April 12, 1971 for refund under section 280 of the Tax Law for stock transfer taxes under Article 12 of the Tax Law, paid between January 1, 1971 and February 1, 1971 by check through a transfer agent to the State Tax Commission. Such claim was denied on May 7, 1971 and applicant applied on June 1, 1971 for a hearing under said section 280 of the Tax Law. In lieu of said hearing applicant submits his case to the Commission on the file of the Miscellaneous Tax Bureau. Said file has been duly examined and considered.

ISSUE

The issue in this case is whether a transfer of securities from the nominee of a fiduciary without an exemption certificate, is taxable.

FINDINGS OF FACT

1. On November 23, 1970 the Board of Directors of Michigan Bell Telephone Company accepted the resignation of the National Bank of Detroit as trustee of their Second Pension Fund as of December 31,

1970. At the same time it appointed the Detroit Bank and Trust Company as successor trustee.

2. The securities held by the National Bank of Detroit as trustee had been registered in the name of their nominee "Trussal & Co." The Detroit Bank and Trust Company chose to hold such securities in the name of their nominee "Shelfor & Co."

3. In January 1971 the National Bank of Detroit forwarded the securities of the pension fund to various banks in New York City which were acting as transfer agents, with instructions to transfer such securities from the name of Trussal & Co. into the name of Shelfor & Co. and to return them to the National Bank of Detroit. Enclosed with such securities were checks for stock transfer taxes at the "no-sale" rate of 2 1/2 cents a share and certifications that the transfers were not sales.

4. The transfer of securities in January, 1971 was not accompanied by a certificate in the form set forth in Regulation 200 NYCRR 444.1(a) or 444.1(d).

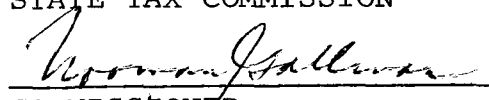
5. The amount of tax in issue is \$1,507.28.

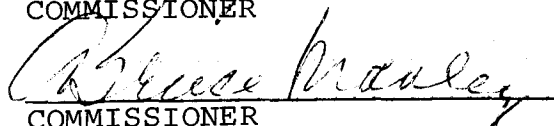
CONCLUSIONS OF LAW


There is no question, of course, that the transaction described would be exempt from stock transfer tax if accompanied by an exemption certificate. The absence of a certificate however causes the transfer taxable (see Craig et al. as trustees of Springfield Union Employees Beneficial Fund v. Bates, 44 M 2d 432).

DATED: Albany, New York
February 21, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER