

STATE OF NEW YORK  
STATE TAX COMMISSION

## In the Matter of the Petition

of

AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL AND :  
HELEN GIMBEL, Joint Tenants :  
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 28th day of May , 1974 , she served the within Notice of Decision (or Determination) by (certified) mail upon Continental Stock Transfer Company (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Continental Stock Transfer Company  
19 Rector Street  
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

28th day of 11 May, 1974

Sworn to before me this  
28th day of May, 1974  
James H. Harkness Martha Durano

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL & :  
HELEN GIMBEL, Joint Tenants :  
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) 10/19/71 :

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

State of New York  
County of Albany

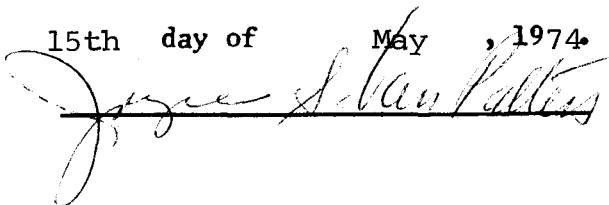
Martha Funaro , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 15th day of May , 19 74, she served the within Notice of Decision (or Determination) by (certified) mail upon Audio Fidelity Enterprises, Inc. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Audio Fidelity Enterprises, Inc.  
221 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 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

15th day of May , 1974.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL & :  
HELEN GIMBEL, Joint Tenants :  
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) 10/19/71 :

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 15th day of May , 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Continental Stock Transfer Company (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Continental Stock Transfer Company  
11 Broadway  
New York, New York 10004

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

15th day of May , 1974

*[Signature]*

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL &  
HELEN GIMBEL, Joint Tenants :  
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) 10/19/71 :

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 15th day of May , 1974, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Herman D. Gimbel

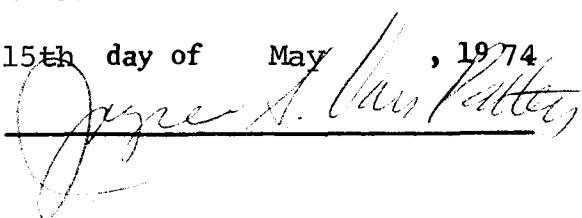
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. Herman D. Gimbel  
200 East 62nd Street  
New York, New York

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

15th day of May , 1974

  
\_\_\_\_\_  
Jayne A. Van Ketter

  
\_\_\_\_\_  
Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL &  
HELEN GIMBEL, Joint Tenants :  
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) 10/19/71 :

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

State of New York  
County of Albany

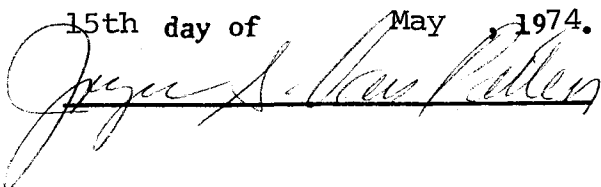
Martha Funaro , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 15th day of May , 19 74, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Herman D. Gimbel and  
Helen Gimbel (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Mr. & Mrs. Herman D. Gimbel  
200 East 62nd Street  
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

15th day of May , 1974.





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
AUDIO FIDELITY ENTERPRISES, INC. :  
HERMAN D. GIMBEL, HERMAN D. GIMBEL & :  
HELEN GIMBEL, Joint Tenants :  
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) 10/19/71 :

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 15th day of May , 19 74, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Herbert Kanon, Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Herbert Kanon, Esq.

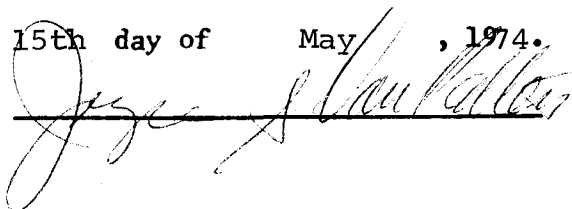
150 Broadway  
New York, New York 10038

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

15th day of May , 1974.







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A  
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

Mario A. Procaccino  
NORMAN K. CALEMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**May 15, 1974**

**Continental Stock Transfer Company  
11 Broadway  
New York, New York 10004**

**Gentlemen:**

Please take notice of the **DECISION** 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,

**Nigel G. Wright**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
Mario A. Procaccino  
~~XXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**May 15, 1974**

**Mr. & Mrs. Herman D. Gimbel**  
**200 East 62nd Street**  
**New York, New York**

**Dear Mr. & Mrs. Gimbel:**

Please take notice of the **DECISION** 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,

**Nigel G. Wright**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau





STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
Mario A. Procaccino  
~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**May 15, 1974**

**Mr. Herman D. Gimbel  
200 East 62nd Street  
New York, New York**

**Dear Mr. Gimbel:**

Please take notice of the **DECISION** 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,

**Nigel G. Wright**  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION  
~~Mario A. Procaccino~~  
~~NORMAN K. CALEMAN~~, PRESIDENT

A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**May 15, 1974**

**Audio Fidelity Enterprises, Inc.**  
**221 West 57th Street**  
**New York, New York 10019**

**Gentlemen:**

Please take notice of the **DECISION** 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,

**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	:	
	:	
AUDIO FIDELITY ENTERPRISES, INC.	:	
HERMAN D. GIMBEL, HERMAN D. GIMBEL	:	DECISION
and HELEN GIMBEL, Joint Tenants	:	
	:	
for a Hearing to Review a Determination of	:	
Stock Transfer Taxes due or denying a claim	:	
for refund of Stock Transfer Taxes under	:	
Article 12 of the Tax Law.	:	
	:	

---

Audio Fidelity Enterprises, Inc., Herman D. Gimbel and Herman D. Gimbel and Helen Gimbel, as joint tenants each joined in the filing of an application under section 279-a of the Tax Law for a hearing to review a determination, dated May 9, 1972, in the amount of \$4,975.00 of stock transfer taxes due under Article 12 of the Tax Law.

A hearing was duly held on December 7, 1972, at the offices of the New York State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. The applicants were represented by Herbert Kanon, Esq. The Miscellaneous Tax Bureau was represented by Saul Heckelman, Esq., appearing by Francis X. Boylan, Esq. The record of said hearing has been duly examined and considered.

#### ISSUES

The issues here are (a) whether a record transfer is taxable when it is said to be merely a correction of a previous transfer

allegedly erroneously recorded, and, (b) whether the rate of tax is correctly computed.

#### FINDINGS OF FACT

1. The tax in question arises from a transfer on October 19, 1971, of 199,000 shares of 10 cents par value common shares of Audio Fidelity Enterprises, Inc. This transfer is recorded on the books of the transfer agent, Continental Stock Transfer Company, as a transfer from Herman D. Gimbel to Herman D. Gimbel and Helen Gimbel, as joint tenants. Mr. Gimbel is the president of Audio Fidelity Enterprises, Inc.

2. The shares in question were part of a block of 200,000 shares which Mr. Gimbel had acquired by an original issue on April 12, 1965 and a stock split on December 3, 1968. A prospectus dated in September, 1968 lists Mr. Gimbel alone as both the record and beneficial owner of these shares.

3. On December 5, 1968, two 500-share certificates from the block of 200,000 shares were transferred to two persons who were officers of Audio Fidelity. These transfers were accomplished by stock powers signed by Mr. Gimbel alone.

4. The tax here in question is computed at the rate of 2 1/2 cents a share on the 199,000 shares to arrive at the total of \$4,975.00. This transfer was not a sale. These shares had a market value in 1971 of less than \$5,000.00 a share.

#### CONCLUSIONS OF LAW

The transfer of stock standing in the name of two individuals to themselves as joint tenants is a taxable transfer (Regulation


20 NYCRR 447.1(a)(16)). On the facts shown the applicant has not carried the burden of proof that there was an error which required correction or that the correction of an error was intended.

The tax as computed is correct. The number of shares transferred is 199,000 since there is assumed to be a right of survivorship. The rate applied must be 2 1/2 cents since the provisions of section 270(2) as to a maximum tax for single transactions applies only to a "sale" and in this case, there is no consideration shown for the transfer.

The determination under review is found to be correct in its entirety.

DATED: Albany, New York  
May 15, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

STATE OF NEW YORK  
Department of Taxation and Finance  
STATE CAMPUS  
ALBANY, N. Y. 12227



☐ Moved, not forwardable

NEW YORK, N.Y. 10004  
Continental Stock Transfer Company

11 Broadway

New York, New York 10004

*W.H.  
Frederic J. Wright  
Bldg #9*

