

STATE OF NEW YORK
STATE TAX COMMISSION

Application

In the Matter of the ~~petition~~

of

RAY T. HAAS

For a Redetermination of a Deficiency or
a Refund of Stock Transfer
Taxes under Article ~~(a)~~ 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 23rd day of December , 1974 , she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Ray T. Haas

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Ray T. Haas
209 Jackson Boulevard
Chicago, Illinois 60606

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)~~
~~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

23rd day of December , 1974

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

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

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

Dated: Albany, New York

December 23, 1974

**Mr. Ray T. Haas
209 Jackson Boulevard
Chicago, Illinois 60606**

Dear Mr. Haas:

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

Please take further notice that pursuant to
Section ~~1074~~ **279-a** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **90 Days**
from 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 relative
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

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
RAY T. HAAS : DECISION
for a Hearing to Review a Determination :
of Stock Transfer Taxes Due Pursuant to :
Article 12 of the Tax Law. :

Ray T. Haas filed an application pursuant to section 280 of the Tax Law for a hearing to review a determination dated June 24, 1971, denying a claim for refund dated June 9, 1971, of stock transfer taxes paid between August 18, 1970 and November 9, 1970, by check through a broker to the New York Stock Exchange Clearing Corporation.

In lieu of a hearing, applicant agreed to submit the case to the State Tax Commission on the file without a personal appearance. Said file has been duly examined and considered.

ISSUE

The issue in this case is whether the change in the name, under the circumstances indicated, of a brokerage account carried at a New York firm by a nonresident constitutes a taxable transfer in New York.

FINDINGS OF FACT

1. On December 4, 1958, in Illinois, Ray T. Haas entered into a trust agreement with his wife and himself as trustees. The trust is a revocable and "spendthrift" trust with income payable to the grantor during his life. Mr. Haas is still alive. After the grantor's death, the trust will continue and the beneficiaries will be the grantor's wife and family in various shares.

A schedule of assets was attached to the agreement. Among the powers of the trustees is the power (Article VI, Subdivision (1) (f) of the agreement) "to keep any property in the name of a trustee, with or without disclosure of any fiduciary relationship, or in bearer form, and to deposit the securities under this trust with a recognized stock exchange member firm, maintaining a membership on the New York Stock Exchange and for convenience to facilitate transfer and trading, to carry such securities in the name of said firm's nominee".

2. Also on December 4, 1958, Beatrice P. Haas, the wife of Ray T. Haas, entered into a trust agreement with her husband and herself as trustees, the terms of which were identical to those of her husband's trust as found in paragraph (1) except that she was the grantor and life beneficiary and the trust will terminate at her death with the corpus going to several named persons. The trustees have the same powers as the trustees under the husband's trust.

3. There is no information in the record of the location of the securities or of the existence of any brokerage account at the time the trusts were created in 1958.

4. By 1969, it is clear that Mr. and Mrs. Haas had brokerage accounts with Merrill, Lynch, Pierce, Fenner and Smith. The securities were located in New York City and the account was serviced from New York City although Mr. and Mrs. Haas would deal also with the Chicago office of the firm. Their accounts were carried in their individual names. The brokerage firm had not been furnished with copies of the trust agreements and had no notice of the trusts.

5. On August 3, 1970, Mr. and Mrs. Haas both instructed the brokerage firm, by letter to its Chicago office, to change the name on their respective accounts from the individual name of each to the names of both as trustees. This change was made because of the advice of counsel. The trust agreement was forwarded to the firm with that letter. The brokerage firm changed the names by closing the old accounts and opening new accounts and charged a stock transfer tax to their customers.

6. At all times, the securities constituting the corpus of the trusts were carried in the name of the brokerage firm as its nominee.

7. The amount of tax involved is \$450.76.


CONCLUSIONS OF LAW

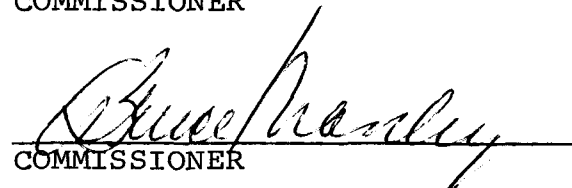
Any transfer of legal or equitable title to the securities in question passed outside of the State of New York. (See 1947 Op. Atty. Gen. 286-7.)

The determination under review is erroneous. The refund is due.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER