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BUREAU OF LAW
MEMORANDUM

Income and Determinations

A-2

Stevenson, Elizabeth D.

INCOME TAX BUREAU

MAR 17 1967

OFFICE OF THE DIRECTOR

TO: Deputy Commissioner Igoe
FROM: E. H. Best, Counsel
SUBJECT: Offer in Compromise of Elizabeth D. Stevenson
Personal Income and Unincorporated Business
Taxes 1964

Enclosed herewith for your review and recommendations in regard to the above mentioned offer in compromise are the Legal Enforcement Unit file, offer in compromise of Mrs. Stevenson, certified check in the amount of \$100.00, income tax returns of Carl S. and Elizabeth D. Stevenson 1963-1965, memorandum of Law Bureau recommending acceptance and proposed order of compromise.

Would you please note your views and forward all papers to the Tax Commission for its consideration.

3/22/67
circled
E. H. Best
Director

E. H. Best
Counsel

JGR:pg

Enc.

March 16, 1967

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BUREAU OF LAW

MEMORANDUM

TO: Commissioners Murphy, Macduff and Conlon

FROM: E. H. Best, Counsel

SUBJECT: Carl S. and Elizabeth D. Stevenson

The enclosed file is forwarded for your consideration in connection with the offer of Mrs. Stevenson to compromise her tax liability for the year 1964 by payment of the sum of \$100.00. The consideration has been submitted with the offer in compromise in the form of a certified check.

The tax liability amounts to \$688.00 plus interest and is based on the joint return of Carl and Elizabeth Stevenson. The return shows personal income tax due for the year 1964 under Article 22 of \$466.00 and unincorporated business tax of \$222.00. Although Mrs. Stevenson did not sign the return she joined with her husband in filing a 1964 joint Federal return and thus is presumed to have elected to file a joint New York return which resulted in her becoming jointly liable for any tax under section 651(b)(2)(A) of the Tax Law.

Carl Stevenson, husband of Mrs. Stevenson, died December 9, 1965, leaving assets which were not sufficient to pay the expenses of administration of the estate. After his death, Mrs. Stevenson existed for some time on a small pension, help from her son and held two or three low paying positions. She is presently employed as a parish visitor by the Fairview Methodist Church at a salary of \$50.00 a week and is still receiving help in meeting living expenses from her son. According to information furnished, Mrs. Stevenson is 57 years old and not trained for any type of employment leading to a higher income. It appears that no tax warrant has been filed in this matter as yet.

The only collection procedure available to the State of New York would be the issuance of an income execution against Mrs. Stevenson. In respect to that procedure, this would appear to be a matter in which the Courts might give serious consideration to a modification, under section 5231(g) of the CPLR, of the 10% payment specified in section 5231(b) of the CPLR. (1st National Bank of New Rochelle v. Lewis, 42 Misc 2d 1007) In addition, there is always the possibility of the intervention of some unknown factor in such a proceeding which would prohibit

collection of the tax altogether. The result would be that the State of New York would invest a great deal of time in collecting less than is being offered in compromise.

In view of the foregoing, it is the opinion of this office that the best interests of the State of New York would be served by accepting the offer of Mrs. Stevenson. If the Commission concurs, please execute the proposed order in triplicate and return to this office for further processing.

E. H. Best
Counsel

JGR:pg

March 16, 1967

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
 :
 of :
 Elizabeth D. Stevenson : Order of
 : Compromise
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A verified petition having been duly presented by ELIZABETH D. STEVENSON, 105 Leroy Street, Binghamton, New York pursuant to Section 171, Paragraph 15 of the Tax Law praying for a compromise of her liability for personal income tax and unincorporated business tax assessed against CARL E. and ELIZABETH D. STEVENSON for the year 1964; and

IT APPEARING from the proof submitted that the said CARL E. STEVENSON died on December 9, 1965 and that his estate is insolvent; and

IT FURTHER APPEARING from the proof submitted that the said ELIZABETH D. STEVENSON is indebted to the New York State Tax Commission in the sum of \$466.00 for personal income taxes and in the sum of \$222.00 for unincorporated business taxes for the year 1964 plus accrued interest in the amount of \$79.12 and that the total amount of said taxes and interest is \$767.12; and

IT FURTHER APPEARING that the said ELIZABETH D. STEVENSON is insolvent and that the sum of \$100.00 is not less than could be recovered through legal proceedings;

IT IS HEREBY ORDERED that pursuant to the authority conferred in and by Section 171, Paragraph 15 of the Tax Law, the said tax liability and indebtedness of the said ELIZABETH D. STEVENSON resulting from the said assessments which now total \$767.12 be and the same hereby are compromised for the sum of \$100.00; and

IT IS FURTHER ORDERED that the aforesaid \$100.00 shall be paid to the State Tax Commission within twenty days after receipt of notice of the issuance of this Order and that upon said payment the said ELIZABETH D. STEVENSON, the petitioner herein, will thereby be discharged and released by the State Tax Commission from liability for unpaid personal income taxes due under Article 22 and unincorporated business taxes due under Article 23 of the Tax Law for the year 1964

and from all interest and penalties thereon, and that a properly and duly executed release of any liability for said taxes be issued to the said ELIZABETH D. STEVENSON.

STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY

PRESIDENT

Joseph H. Murphy
COMMISSIONER

Walter Mackay Conlon
COMMISSIONER

DATED: March 23, 1967