

STATE OF NEW YORK
STATE TAX COMMISSION

*Fitzgerald - Thomas I.
Pers. Inc.
(22)*

In the Matter of the Petition

of

Thomas I. Fitzgerald, Public :
Administrator, on behalf of :
Colette Josselson, Deceased :
For a Redetermination of a Deficiency or :
a Refund of Personal Income :
Taxes under Article(s) 22 of the :
Tax Law for the (Year(s) 1960, 1961, :
1962 and 1963

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

State of New York
County of Albany

Claire A. Draves, 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 January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Thomas I.

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

wrapper addressed as follows: Thomas I. Fitzgerald
51 Chambers 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

21st day of January, 1971.

Maitha Furano

Claire A. Draves

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
Collette Josselson, Deceased
Thomas I. Fitzgerald Public
Administrator
For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s) 1960, 1961,
1962 and 1963

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

State of New York
County of Albany

Claire A. Draves, 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 January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon Joseph T. Arenson, Esq. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph T. Arenson, Esq.
51 Chambers 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

21st day of January, 1971.

Matthew J. Funnaro

Claire A. Draves

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
THOMAS I. FITZGERALD, Public Administrator,
on behalf of COLETTE JOSSELSO, deceased
for Redetermination of Deficiency or
for Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Years
1960, 1961, 1962 and 1963

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: DECISION
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The Public Administrator of New York County filed on behalf of Colette Josselson, deceased, a petition for redetermination of a deficiency under date of September 19, 1966, file # 49999825 in the amount of \$6,200.13 of personal income tax plus \$1,570.60 interest, under Article 22 of the Tax Law. A formal hearing was held before Solomon Sies, Hearing Officer, in the offices of the State Tax Commission in the City of New York on January 31, 1968. The Public Administrator was represented by Joseph Arenson, Esq. (Bernard Gross, Esq. of counsel).

FINDINGS OF FACT

1. The issue in this case is whether monies received by the decedent represented income for services rendered, or non-taxable gifts from unknown admirer(s).
2. The deceased taxpayer was the victim of murder and left an estate valued at \$61,433.63, consisting of cash, securities, jewelry, and credit.
3. There is no record of any New York State tax returns filed by decedent for any of the years in question. A federal return was filed for 1961. There is no record of a federal return being filed for 1960.
4. The federal tax return filed for 1961 shows taxable income of the decedent to be \$2224.00.

5. Decedent was a resident of New York from 1946 to the time of her death in 1963.

6. The deceased spent \$5,300.00, \$13,300.00, \$5,700.00 and \$200.00 thru her checking accounts during the years 1960, 1961, 1962 and 1963 respectively.

7. Decedent paid \$200.00 per month for rent and \$100.00 per month for her maid.

8. Based upon the manner and place where decedent lived her reasonable cost of living was estimated at \$10,000.00 per year.

9. The deceased taxpayer was known by habit and reputation to accompany men with the understanding that she would receive a gift at the end of the evening.

10. The Public Administrator has failed to sustain his burden of proof to show that monies received by decedent represented gifts from unknown admirer(s).

DECISION

A. Monies received by the deceased are determined to be income for services rendered and are subject to tax.

B. The notice of deficiency is sustained and the petition is denied.

DATED: Albany, New York

January 20, 1971

STATE TAX COMMISSION

Norman Gelman

COMMISSIONER

Richard M. Muley

COMMISSIONER

Martin Koen

COMMISSIONER