

STATE OF NEW YORK
STATE TAX COMMISSION

Fleischer, Clara
Personal

In the Matter of the Petition

of

CLARA FLEISCHER

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 16 of the
Tax Law for the (Year(s)) 1959

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

State of New York
County of Albany

Linda Wilson, 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 11th day of January, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon CLARA

FLEISCHER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Clara Fleischer
240 East 76th Street
New York 21, 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

11th day of January, 1971

Martha Furman

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

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age, and that on the 11th day of January, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon CLARA

FLEISCHER (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mayor Siegel
c/o Strasser, Spiegelberg, Fried & Frank
120 Broadway
New York 5, 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

11th day of January, 1971.

Martha Turner

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
CLARA FLEISCHER	:	DETERMINATION
for Revision or Refund of Personal	:	
Income Taxes under Article 16 of the	:	
Tax Law for the Year 1959	:	

Clara Fleischer having duly filed an application for revision or refund of personal income tax assessed under Article 16 of the Tax Law for the calendar year 1959, and a hearing having been held in connection therewith at the office of the State Tax Commission, 80 Centre Street, New York, New York.

FINDINGS OF FACT

1. That taxpayer filed a personal income tax return for 1959; that an assessment was thereafter issued on February 24, 1961, (Assessment # B-838631) for additional personal income tax in the amount of \$666.50 on the ground that payment made by the taxpayer under the German Equalization of Burdens Law does not qualify as a deduction under Section 360(3) of the Tax Law.

2. That the Equalization of Burdens Law is an attempt to mitigate hardship which resulted from the reorganization of the monetary system within the area of the Constitution, including West Berlin and to cover damages and losses which have resulted from explosion and destruction during the war and postwar period; that the benefits available under the law consist of war damage pensions to elderly and incapacitated persons, lump-sum allowance for the replacement of household effects, rehabilitation loans for new businesses, the construction of homes and a moderate revaluation of savings and certain investments.

3. That the taxpayer was assessed under the capital levy (vermögensabgabe) provision of the Equalization of Burdens Law; that capital levy amounts to 50% of the net worth of all individuals and entities which are subject to the levy either as residents or nonresidents; that tax paid by taxpayer under the capital levy was based on taxpayer's real estate holdings in Germany.

4. That the Dawesabgabe imposed in Germany was a tax within the meaning of Section 214(a)(3), Revenue Act of 1926 and section 23(c), Revenue Act of 1928 per Revenue Ruling G.C.M. 8933 issued in 1931.

5. That when a person's liability under the Equalization of Burdens Law was determined, payment was spread over 30 years and the annual amounts were increased beyond their proportional share to take into account the equivalent of interest; that the amount paid by taxpayer in 1959 represented the discounted amount payable under the acceleration payment provisions of the Equalization of Burdens Law.

6. That section 214(a)(3) of the Revenue Act of 1926 and section 23(c) of the Revenue Act of 1928 with certain exceptions are similar to section 360(3) of the Tax Law and that the Equalization of Burdens tax is a tax similar to the Dawesabgabe.

DETERMINATION

A. That the capital levy imposed under the Equalization of Burdens Law is a tax within the meaning of section 360(3) of the Tax Law and that the amount paid by taxpayer in 1959 is a valid deduction in computing net income under Article 16 of the Tax Law. The petitioner's application is sustained.

B. That, accordingly, the additional assessment disallowing the deduction for taxes paid by taxpayer under the Equalization of

Burdens Law was improper and is hereby cancelled in full.

DATED: Albany, New York

STATE TAX COMMISSION

December 31, 1970


COMMISSIONER

COMMISSIONER


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