

Estate of Louis Sloane
Personal Income
Article 16

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF LOUIS SLOANE

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) 1955, 1956, and
1957

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 13th day of January, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon ESTATE OF LOUIS SLOANE (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Anna Sloane
90 Bryant Avenue
White Plains, 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

13th day of January, 1971.

Maitha Fajano

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

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c/o Lakin & Resnick
Certified Public Accts.
88 William Street, White Plains, 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

13th day of January, 1971.

Arthur J. ...

Linda Wilson

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application

of

ESTATE OF LOUIS SLOANE

for Revision or Refund of Personal Income
Taxes under Article 16 of the Tax Law for
the Years 1955, 1956 and 1957

DETERMINATION

The executrix for the Estate of Louis Sloane applied for revision or refund of personal income taxes under Article 16 of the Tax Law for the years 1955, 1956 and 1957. A formal hearing was held before Vincent P. Molineaux, Hearing Officer, in the City of New York on October 28, 1966. The applicant was represented by Lillian A. Lakin, C.P.A.

FINDINGS OF FACT

1. The issue in this case is whether the Estate of Louis Sloane, as a member of a partnership, is entitled to an additional deduction based upon a change of valuation of real property held by the partnership.
2. The subject estate, at the time of its creation in May, 1955 upon the death of Louis Sloane, acquired a twenty-five percent interest in the partnership of Sloane and Shapiro. The partnership's principal assets consisted of two commercial realty parcels in New York. Partnership and Fiduciary Returns for the years 1955, 1956 and 1957 were filed and taxes paid accordingly.
3. As a result of a 1957 federal audit a refund was granted to the Estate by the Internal Revenue Service based upon an adjustment made to the basis of the realty owned by the partnership. An additional deduction was allowed for depreciation in valuation of the real estate resulting in a further refund. Claims for revision on Federal Form 843 for the years 1955 and 1956 with the

Internal Revenue Service were also granted. Based upon these facts the Estate's representative filed an application for revision or refund of New York State taxes for the years in question.

DETERMINATION

A. Under New York Law the Estate is not the owner of a fractional or individual interest in any of the real estate owned by the partnership. Further, Section 51 of McKinney's Consolidated Laws of New York Annotated Volume 38 provides that "partnership realty is considered personalty with regard to a partner's rights therein." This differs from federal tax law where the executors of an estate may elect to continue a deceased partner's interest in a partnership.

B. The Estate is not entitled to the deduction of the additional depreciation for the period after the death of Louis Sloane as claimed and the application is therefore denied.

DATED: Albany, New York

STATE TAX COMMISSION

January 13, 1971.

Raymond G. Gallivan

COMMISSIONER

COMMISSIONER

Walter Koenig

COMMISSIONER