

POOR  
QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

March 29, 1972

Norman H. Bushan, C.P.A.  
One Old Country Road  
Carle Place, N.Y. 11514

Re: I. George Berkman  
Year 1959  
Formal Hearing - Decision  
dated March 16, 1972

Dear Mr. Bushan:

Your request of March 27, 1972 that the State Tax Commission accept Mr. Berkman's check in the amount of \$1,991.30 in full settlement of the captioned decision, has been forwarded together with the check to the State Tax Commission for their consideration.

We will advise you promptly of their decision in this matter.

Very truly yours,

Lawrence A. Newman  
Hearing Officer

LAN/z

cc: Mr. Rook  
Law Bureau

April 24, 1972

Norman H. Bushan, C.P.A.  
One Old Country Road  
Carle Place, New York 11514

Re: I. George Berkman  
Year 1959  
Formal Hearing - Decision  
dated March 16, 1972

Dear Mr. Bushan:

I am pleased to advise you that the State Tax Commission has decided to accept Mr. Berkman's check in the amount of \$1,991.30 in full settlement of the captioned decision.

The check, which was forwarded to us with your request of March 27, 1972, is being deposited for collection.

Very truly yours,

Lawrence A. Newman  
Hearing Officer

cc: Solomon Sies, Esq.  
Law Bureau

LAN/lw

James Scott, Esq.  
Lawrence A. Newman  
I. George Berkman  
Year 1959  
Formal Hearing - Decision  
dated March 16, 1972

April 24, 1972  
Hearing Unit

Transmitted herewith is petitioner's personal check of \$1,991.30 together with a waiver of penalty and interest by the State Tax Commission. The check is a full payment of the basic tax.

Please forward this transmittal and your file to the Income Tax Bureau for processing.

---

Lawrence A. Newman  
Hearing Officer

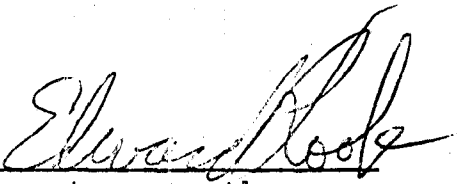
LAN/z

Enc.

MEMORANDUM

TO : State Tax Commission  
FROM : Mr. Edward Rook  
SUBJECT: I. George Berkman

We have received a check for \$1,991.30, the basic tax, in the above matter, conditioned upon our waiver of any interest and penalty. No fraud was involved. This was merely a dispute under Article 16 as to whether a dividend was ordinary income or capital gain. The assessment was made in 1962 and a determination was not forthcoming until 1972. In view of the fact that we can waive interest for Article 16 matters, I suggest we do so. Please indicate your approval or disapproval on this memorandum.

  
Secretary to the  
State Tax Commission

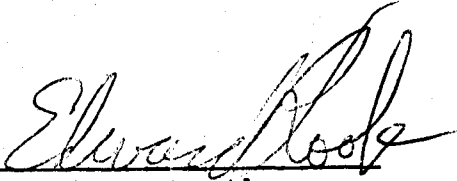
April 5, 1972  
Attachments

Approved  
Milton Kravitz 4/7/72  
G. B. Mearns 4/15/72  
Norman Gallman 4/21/72

MEMORANDUM

TO : State Tax Commission  
FROM : Mr. Edward Rook  
SUBJECT: I. George Berkman

We have received a check for \$1,991.30, the basic tax, in the above matter, conditioned upon our waiver of any interest and penalty. No fraud was involved. This was merely a dispute under Article 16 as to whether a dividend was ordinary income or capital gain. The assessment was made in 1962 and a determination was not forthcoming until 1972. In view of the fact that we can waive interest for Article 16 matters, I suggest we do so. Please indicate your approval or disapproval on this memorandum.

  
Secretary to the  
State Tax Commission

April 5, 1972  
Attachments

Approved  
Milton Kremer 4/7/72  
B. Menley 4/15/72  
Norman Gallman 4/21/72

BUSHAN & LEVY  
Certified Public Accountants  
ONE OLD COUNTRY ROAD, CARLE PLACE, N. Y. 11514  
(516) 747-2020

March 27, 1972

Department of Taxation and Finance  
Building 9, Room 214 A  
State Campus  
Albany, New York 12226

Re: I. George Berkman  
Year 1959

Att: Mr. Lawrence A. Newman  
Hearing Officer

Gentlemen:

Taxpayer received determination letter dated March 16, 1972 on the formal hearing of September 23, 1970.

Unfortunately, the circumstances in the overall delay in the proceedings arising out of a tax assessment for the year 1959 has caused our office considerable embarrassment to explain to our client.

Rather than proceed with further litigation, we are recommending to our client payment of the assessment of \$1,991.30, check herewith enclosed, conditionally upon the indulgence of the department not to impose any penalty or interest on the assessment.

We respectfully request your department to favor us in the above instance.

THIS CHECK IS IN SETTLEMENT OF THE FOLLOWING INVOICES	
DATE	AMOUNT
3/27/72	1959
TOTAL	
DISCOUNT	
NET	

IF INCORRECT PLEASE RETURN. NO RECEIPT NECESSARY

I. GEORGE BERKMAN  
250 FULTON AVENUE  
HEMPSTEAD, N. Y. 11550

No. 2578

March 27, 1972

PAY TO THE ORDER OF N.Y. State Dept. Taxation & Finance \$1991.30

One Thousand Nine Hundred & Ninety one and 30/100 DOLLARS

I. GEORGE BERKMAN

SECURITY NATIONAL BANK  
HEMPSTEAD, N Y 11551

George Berkman

0214 0399 521 0757



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS  
ALBANY, N. Y. 12226

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**March 16, 1972**

**I. George Berkman  
250 Fulton Avenue  
Hampstead, New York**

**Dear Sir:**

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

Please take further notice that pursuant to **section 375 of**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **90 Days** after  
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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

  
**Lawrence A. Newman**  
HEARING OFFICER

cc Petitioner's Representative ✓  
Law Bureau



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

I. GEORGE BERKMAN

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

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 16th day of March , 19 72, she served the within  
Notice of Decision (or Determination) by (certified) mail upon I. George Berkman

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

wrapper addressed as follows: I. George Berkman  
250 Fulton Avenue  
Hempstead, 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

16th day of March , 1972

Ed Zimmerman

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

I. GEORGE BERKMAN

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

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 16th day of March , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon Norman H. Bushan, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Norman H. Bushan, Esq.  
500 Old Country Road  
Garden City, New York 11530  
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

16th day of March , 1972.

Rae Zimmerman

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**March 16, 1972**

**I. George Dorfman  
250 Fulton Avenue  
Rampstead, New York**

**Dear Sir:**

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

Please take further notice that pursuant to **section 373 of**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **90 Days** after  
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 relat-  
ing hereto may be addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

*Lawrence A. Rook*  
**Lawrence A. Rook**

HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Application	:	
of	:	
I. GEORGE BERKMAN	:	DETERMINATION
for a redetermination of a deficiency or :		
for refund of Personal income taxes under:		
Article 16 of the Tax Law for the year :		
1959.	:	

---

Taxpayer filed an application for revision or refund of personal income taxes under Article 16 of the Tax Law for the year 1959. A formal hearing was held before Lawrence A. Newman, Hearing Officer, at the office of the State Tax Commission in the city of New York on September 23, 1970. The taxpayer was represented by Norman Bushan, Esq.

FINDINGS OF FACT

1. Taxpayer filed a New York State Income Tax Resident Return for the year 1959.
2. On February 20, 1962 the Department of Taxation and Finance issued a notice of additional assessment No. B 999689 in the amount of \$1,991.30.

The assessment was based on a finding by the bureau that a dividend received from Barandeb Realty Corp. in the amount of \$40,000.00, reported as normal income is an additional liquidating dividend from the corporation subject to net capital gains tax.

3. Barandeb Realty Corporation was incorporated in December 23, 1954 by the taxpayer. In January, 1955 taxpayer transferred certain interests in real estate valued at \$50,008.33 to the corporation in exchange for stock valued at \$10,000.00. The balance of \$40,008.33 was set up as a loan payable to the taxpayer.

4. On December 4, 1959 the corporation declared a dividend of \$40,000.00 and in the same date the board of directors adopted a resolution to liquidate the corporation on December 31, 1959. The corporation on December 4, 1959 paid in cash to the taxpayer the sum of \$19,500.00 as part of the dividend and the balance of \$20,500.00 representing the market value of the corporate real property was distributed to the taxpayer on December 31, 1959.

5. Loans received by stockholders of a corporation are treated as liquidating distributions and not a dividend. Further, when a dividend as declared on or about the time of an adoption of a resolution of liquidation it is regarded as a liquidating dividend and subject to capital gains treatment.

DETERMINATION

A. The liquidating dividend of \$40,000.00 is a capital gain for income tax purposes.

B. The application is denied and the assessment is sustained.

DATED: Albany, New York  
*March 16, 1972*

STATE TAX COMMISSION

*Norman J. Gellman*  
COMMISSIONER

*Bruce Hanley*  
COMMISSIONER

*Milton Kerner*  
COMMISSIONER