

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ESTATE OF LOUIS EILPERIN & MARY :  
EILPERIN :  
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) 1963, 1964 & 1965

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 26th day of May , 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Mary Eilperin

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

wrapper addressed as follows: Mary Eilperin  
135 Eastern Parkway  
Brooklyn, 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

26th day of May , 1972.

Rai Zimmerman

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF LOUIS EILPERIN & MARY  
EILPERIN

For a Redetermination of a Deficiency or  
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Taxes under Article(s) 22 of the  
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she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 26th day of May , 19 72, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Bernard V.  
Chwast, C.P.A. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Bernard V. Chwast, C.P.A.  
99 Railroad Station Plaza  
Hicksville, New York 11801

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  
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Sworn to before me this

26th day of May , 1972.

Rae Zimmerman

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

May 26, 1972

Mary Kilperin  
135 Eastern Parkway  
Brooklyn, New York

Dear Mrs. Kilperin:

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

Please take further notice that pursuant to section(s)  
**690** of the Tax Law any proceeding  
in court to review an adverse decision must be commenced  
within **4 Months** 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 relating hereto may be  
addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

**Nigel G. Wright**

Hearing Officer

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ESTATE OF LOUIS EILPERIN	:	
AND MARY EILPERIN	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1963, 1964 and 1965.	:	

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The Estate of Louis Eilperin and Mary Eilperin filed a petition under section 689 of the Tax Law for the redetermination of deficiencies dated July 28, 1969, for personal income taxes under Article 22 of the Tax Law for the years 1963, 1964 and 1965.

A hearing was held on July 29, 1971, at the offices of the State Tax Commission, 80 Centre Street, New York City, before Nigel G. Wright, Hearing Officer. Bernard V. Chevast, C.P.A. represented the petitioner. Edward H. Best, Esq., (Francis X. Boylan, Esq., of Counsel) represented the Income Tax Bureau.

The record of such hearing has been duly examined and considered.

ISSUE

The issue in this case is whether certain sums found in a safe deposit box and certain other funds found to be required for living expenses are income to petitioners.

FINDINGS OF FACT

1. Mr. and Mrs. Eilperin lived at 135 Eastern Parkway, Brooklyn. Mr. Eilperin was a former federal agent who worked as an investigator for the Adoption Bureau of the Kings County Surrogates Court. His salary there varied from \$11,000.00 to \$14,000.00 a year. He also listed his occupation on his tax returns as "consultant" but no income attributable thereto is listed.

2. Mr. Louis Eilperin died in 1965. He left a gross New York State estate of about \$90,000.00. Included therein is the amount of \$15,465.00 being the amount of cash found together with other property in a safe deposit box owned by him at the branch of the Manufacturer Hanover Trust Company on Montague Street, Brooklyn.

3. Mr. and Mrs. Eilperin together received, in addition to salary, social security benefits, a New York City pension, dividend and interest income. The total of their taxable and nontaxable income for 1963, 1964 and 1965 was approximately \$26,000.00, \$18,000.00 and \$12,000.00 respectively. It was agreed that the petitioners needed \$7,000.00 a year in cash for living expenses. In addition, money was withdrawn from bank accounts in the amounts of approximately \$6,000.00, \$7,000.00 and \$7,000.00, while deposits were made of \$34,000.00, \$30,000.00 and \$20,000.00.

4. Mary Eilperin asserts that her husband Louis had a cash hoard which was acquired from his brother, Harry Eilperin, when Harry Eilperin died in 1961. This money was allegedly in a joint safe deposit box owned by Louis and Harry Eilperin and it was alleged that this money account for both the cash available in 1965 and the additional funds required for 1963, 1964 and 1965 amounting in total to over \$40,000.00. Furthermore it is alleged that Louis Eilperin would take money out of the safe deposit vault to place it in the savings bank accounts.

5. In 1965, Mr. and Mrs. Eilperin together had 32 bank accounts mostly very small. Each had a separate checking account. Louis Eilperin made about three deposits a month and Mary Eilperin made about two deposits a month during the three years each deposit being for a few hundred dollars and never in identical amounts.

6. Petitioners have not produced a listing of the visits made to the safe deposit box during the three years here in issue, though they were requested to do so. Furthermore, no attempt has been made

to show the size of the estate of Harry Eilperin from which the cash board is said to have originated.

7. The deficiencies amount to \$1,474.97 plus \$467.76 interest for a total of \$1,942.73 for 1963 and \$2,513.86 plus \$597.77 interest for a total of \$3,111.63 for both 1964 and 1965.

CONCLUSIONS OF LAW

The circumstances shown in the record clearly mandate a better explanation than has been given of the source of the asserted income. Petitioners have not carried their burden of proof. (See Giddio 54 U.S. Tax Ct. 1530; Scotto 1950, U.S. Tax Ct. memo dec. no. 255.)

DECISION

The petition is denied and the deficiency is affirmed together with such interest as may be due under section 684 of the Tax Law.

DATED: Albany, New York

*May 26, 1972*

STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

*Bruce Manley*  
\_\_\_\_\_  
COMMISSIONER

*William Korman*  
\_\_\_\_\_  
COMMISSIONER