

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
THE STATE NATIONAL BANK OF CONNECTICUT, as
trustee of the John Frankel Trust and the
Marjorie Ann Frankel Trust
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))~~ F/Y/E May 31,
1962.

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

State of New York
County of Albany

Lynn 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 December, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon Marjorie Ann Frankel
Bank of Connecticut, et al., Trust, State National
Trustees (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: John Frankel Trust and Marjorie Ann Frankel Trust
State National Bank of Connecticut, et al. Trustees
1 Atlantic Street
Stamford, Connecticut 06901
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 December, 1972.

Martha Furman

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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of
THE STATE NATIONAL BANK OF CONNECTICUT, as
trustee of the John Frankel Trust and the
Marjorie Ann Frankel Trust :
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)~~ F/Y/E May 31, :
1962.

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

State of New York
County of Albany

Lynn 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 December , 19 72, she served the within
Notice of Decision (or Determination) by (certified) mail upon GEORGE DE SIPIO,
ESQ., OF COUNSEL (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
George De Sipio, Esq., of Counsel
wrapper addressed as follows: Cleary, Gottlieb, Steen & Hamilton, Esqs.
52 Wall 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

11th day of December , 1972.

Martha Funnis

Lynn Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
THE STATE NATIONAL BANK OF CONNECTICUT, as
trustee of the John Frankel Trust and the
Marjorie Ann Frankel Trust
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)) F/Y/E May 31,
1962.

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

State of New York
County of Albany

Lynn 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 December, 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon CHARLES M. HECHT,
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: Charles M. Hecht, C.P.A.
595 Madison Avenue
New York, New York 10022
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 December, 1972.

Martha Funnaro

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
December 11, 1972

**John Frankel Trust and Marjorie Ann Frankel Trust
State National Bank of Connecticut, et al. Trustees
1 Atlantic Street
Stamford, Connecticut 06901**

Gentlemen:

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

Please take further notice that pursuant to **section 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 relat-
ing 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

In the Matter of the Petition	:	
of	:	
THE STATE NATIONAL BANK OF CONNECTICUT,	:	
as trustee of the John Frankel Trust,	:	
AND	:	DECISION
THE STATE NATIONAL BANK OF CONNECTICUT,	:	
as trustee of the Marjorie Ann Frankel	:	
Trust	:	
for a Redetermination of Deficiencies or for	:	
Refunds of Personal Income Taxes under	:	
Article 22 of the Tax Law for the fiscal	:	
year ending May 31, 1962.	:	

Petitions were filed for the redetermination of deficiencies dated May 25, 1964, in personal income taxes imposed under Article 22 of the Tax Law for the fiscal year ending May 31, 1962. A hearing was duly held before Nigel G. Wright, Hearing Officer, on September 15, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, with Mr. George DeSipio, Esq. of Cleary, Gottlieb, Steen & Hamilton appearing for petitioner and Mr. Francis X. Boylan, Esq. of the office of Edward H. Best, Esq., appearing for the Income Tax Bureau. The record of said hearing has been duly examined and considered.

ISSUE

I. The issue herein is whether the trusts are resident trusts under section 605(c)(3) of the Tax Law and if they are resident trusts whether New York can validly tax them under the due process clause of the Constitution of the United States.

FINDINGS OF FACT

1. Ferdinand Frankel, Jr., a resident of New York, established two irrevocable inter vivos trusts on June 27, 1956. One trust includes the donor's son, John, as beneficiary and the other includes

his daughter, Marjorie Ann, as beneficiary. Otherwise, they are identical. Each trust involved an accumulation of income which could not be done under New York law but could be done in Connecticut. The trustees of each trust are Charles Hecht, a resident of New York, Malcolm Cole, a resident of New York, and the State National Bank of Connecticut located in Stamford, Connecticut. Under the agreement, the trustees have the power to resign without court approval and the remaining trustees may appoint successor trustees but at any time at least one of the trustees must be a Connecticut resident or corporate trustee located in Connecticut.

2. Mr. Ferdinand Frankel, Jr., died on May 4, 1963, having always been a domiciliary of New York. His wife, Lucille W. Frankel, is still living and is a domiciliary of New York.

3. The agreements were executed in Connecticut and the property in trust was delivered in Connecticut by the donor to the trustees where it is held by the Connecticut bank. The agreements provide that the trusts are to be governed by Connecticut law. The assets of the trusts consists of securities in the possession of the Connecticut bank and an interest as a partner in the Frankel Connector Co., a New York partnership (the two individual trustees being general partners). It is agreed that the trusts are taxable in New York on the income from the New York partnership.

4. The current income of the trust is to be accumulated and added to principal for 20 years, or until the trustees (other than the donor's wife, Lucille, or her children if acting as trustees) in their discretion suspend or terminate the accumulation. If the income is not being accumulated, it is payable to Lucille until her death and then to the donor's son, John, until his death and then to the person who would receive the principal if the trust was then terminated. The principal,

including accumulated income, may be invaded and paid out for the benefit of any current income beneficiary in the discretion of the trustees (other than Lucille or her children, if acting as trustees).

5. The terms of the John Frankel Trust include the following: The trust term is for the longer of the life of the donor's wife, Lucille, the time elapsed until John becomes 40 years of age or for 21 years. However, the trust may be terminated in whole or in part upon the death of Lucille in accordance with a power of appointment in Lucille provided that such power cannot be exercised in favor of herself, her estate, or the creditors of her estate. At termination, the principal is payable to John. If John is dead, the principal is payable to John's descendants, if any, then to the donor's daughter, Marjorie, if alive, then to Marjorie's descendants if any then to the donor's sister, Nora, if alive, then to Nora's descendants, if any, and finally to the donor's descendants as defined under the intestacy laws of Connecticut. The Marjorie Frankel Trust has similar terms.

6. The deficiency for the John Frankel Trust is \$358.14 plus interest of \$36.40 to the date of the deficiency. The deficiency for the Marjorie Ann Frankel Trust is \$358.11 plus interest of \$36.40 to the date of the deficiency.

CONCLUSIONS OF LAW

A. The trusts were created by a domiciliary of New York and are resident trusts within the meaning of section 605(c)(3) of the Tax Law.


B. There are sufficient contacts with the State of New York for the trusts to be within the jurisdiction of New York without violation of the due process clause of the United States Constitution.

DECISION

A. The petition is denied and the deficiency is affirmed together with such interest, if any, as may be due under the Tax Law.

DATED: Albany, New York
December 11, 1972

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER