



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

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

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York  
December 4, 1972

Edward & Barbara Hider  
1817 Jackson Street  
San Francisco, California

Dear Mr. and Mrs. Hider:

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,

L. Robert Leisner  
HEARING OFFICER

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
FRANK AND GLORIA HOWLANDER :  
EDWARD AND BARBARA HIDER : DETERMINATION  
EVA HIDER KASIS :  
Estate of ALEXANDER HIDER, :  
DAVID LEVENE, Co-executor :  
for Revision or for Refund of Personal :  
Income Tax under Article 16 of the Tax :  
Law for the Year 1959. :

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The taxpayers applied for a revision or for refund of personal income tax under Article 16 of the Tax Law for the year 1959.

A formal hearing was held at the offices of the State Tax Commission, Binghamton, New York, on September 15, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Levine, Goulden & Thompson, Michael H. Zuckerman, Esq., of Counsel, and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUES

I. Where the taxpayers received a liquidation dividend from the sale of all of the assets of the Glendale Development Corp. in 1959, and in 1965, the taxpayers paid transferee assessments relating to the 1959 sale of Glendale, may the taxpayers amend their 1959 returns with a deduction for the 1965 payments?

II. In such a situation, does New York State afford tax treatment similar to the optional credit provided by section 1341 of the Internal Revenue Code?

FINDINGS OF FACT

1. Taxpayers timely filed New York State income tax returns for the year 1959. After payment in 1965 of transferee assessments relating to the 1959 sale of Glendale, the taxpayers sought to amend their 1959 returns and to claim refunds.

2. Notices of denial of refunds in personal income tax for the year 1959 were issued on February 2, 1968 against;

Frank and Gloria Howlander	File No. 6857785
Edward and Barbara Hider	File No. 6116216
Eva Hider Kasis	File No. 5511864
Alexander Hider	File No. 5292097

3. The taxpayers applied for relief from the denial of the refunds.

4. The taxpayers received a liquidation dividend from the Glendale Development Corp. In 1965, the taxpayers paid transferee assessments relating to the 1959 sale of Glendale, and secured a federal credit pursuant to section 1341 of the Internal Revenue Code. The taxpayers sought to amend their 1959 returns with a deduction for the 1965 payments and claimed a refund which was denied.

CONCLUSIONS OF LAW

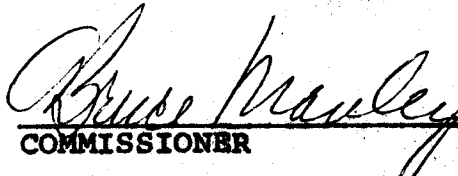
A. The funds were received in 1959 under "claim of right". The deduction of monies repaid is deductible only in the year of repayment. A prior capital gain on a liquidating dividend requires capital gain treatment on assertion of transferee liability and repayment of funds held under "claim of right". The New York State Tax Law does not have an optional credit such as that provided by section 1341 of the Internal Revenue Code. George & Inez M. Kass v. Commission, N.Y.S. Tax Comm. dec. March 15, 1971.

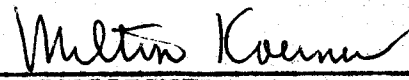
B. The refund denials are sustained.

DATED: Albany, New York  
December 4, 1972

STATE TAX COMMISSION

  
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STATE OF NEW YORK  
Department of Taxation and Finance  
STATE CAMPUS  
ALBANY, N. Y. 12227



Edward & Barbara Hider

7089

1817 Jackson Street

San Francisco, California

- Return to address
- Return to post office
- Move, but is available
- Addressee unknown

962

*Handwritten notes and signatures, including a large signature that appears to be 'Edward & Barbara Hider'.*