In the Matter of the Petition

of

FRANCESCO VON MENDELSSOHN

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

For a Redetermination of a Deficiency or a Refund of Personal Income Taxes under Article(s) 16 Tax Law for the (Year(s) 1954 & 1955 :

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 June , 1972 , she served the within age, and that on the 28th day of Notice of Decision (or Determination) by (certified) mail upon Francesco von Mendelssohn c/o Horst Kurnik, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Francesco von Mendelssohn c/o Horst Kurnik, Esq.

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.

27 William Street

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

, 1972

Jackha Junaso

In the Matter of the Petition

of

FRANCESCO VON MENDELSSOHN

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

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) 1954 & 1955 :

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 28th day of June , 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon Titus H. Konther, Esq.

(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Titus H. Konther, Esq.

27 William 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

28th day of June , 1972.

Grantha Turous



STATE TAX COMMISSION

A. BRUCE MANLEY

MILTON KOERNER

NORMAN F. GALLMAN, ACTING PRESIDENT

### 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

ADDRESS YOUR REPLY TO

Dateds

Albany, New York

June 28, 1972

Francesco von Mendelsschn c/o Morst Murnik, Meq. 27 William Street New York 5, New York Gentlemen:

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

Please take further notice that pursuant to Section(s) 375 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 90 Days from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very truly yours,

Enc.

Paul B. Coburn HEARING OFFICER

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATIONS

OF

FRANCESCO VON MENDELSSOHN

DETERMINATION

FOR REVISION OR REFUND OF PERSONAL INCOME TAXES UNDER ARTICLE 16 OF THE TAX LAW FOR: THE YEARS 1954 AND 1955

Francesco von Mendelssohn having duly filed applications for revision or refund of personal income taxes assessed under Article 16 of the Tax Law for the calendar years 1954 and 1955, and a hearing having been held in connection therewith on January 8, 1963 at the office of the State Tax Commission, 80 Centre Street, New York, New York before Martin Schapiro, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayer, now deceased, was represented by Titus H. Konther and Horst Kurnik, Esqs., and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That returns of income for the calendar years 1954 and 1955 were filed by the taxpayer showing income from trust in the amounts of \$10,273.12 and \$7,675.67 for each of the years 1954 and 1955, respectively; that thereafter assessments were issued on April 17, 1957 (Assessment No. B-273780 for the year 1954 and Assessment No. B-273781 for the year 1955) on the ground that the taxpayer in reporting income from trust should have been had erroneously deducted certain expenditures which/charged to the principal of the trust.

- established by the taxpayer herein and Eleonore von Mendelssohn, the grantors, providing for the payment of income to the aforesaid settlors or their survivors during their respective lives; that the trust agreement which gave the trustees power to invade the trust also provided for the termination of the trust upon the death of the survivors, or sooner in the sole discretion of the trusts and the distribution of the corpus of said trust to the heirs of such survivors.
- (3) That in May 1955 Eleonore von Mendelssohn died leaving debts greatly in excess of the amount of assets in her estate; that the trustees settled and compromised such debts in the amount of \$12,500 paying the same out of the principal of the trust and further charging the principal of the trust legal fees incurred in connection with the compromise. Such legal fees were deducted by the taxpayer in reporting income from trust.

Based upon the foregoing findings and all the evidence presented herein, the State Tax Commission hereby

#### DETERMINES:

- (A) That the legal fees chargeable to the corpus of the trust were not the obligations of the taxpayer, the beneficiary of said trust, and were not allowable as deductions under section 360 of the Tax Law, but that said obligations were the lawful obligations of the trust.
- (B) That accordingly, the additional taxes assessed against the taxpayer for the years 1954 and 1955 under Article 16 of the Tax Law are correct and do not include any taxes

or charges which are not lawfully due and owing.

DATED: Albany, New York, on the 28th day of June , 1972.

STATE TAX COMMISSION

horman Jelman President

Commissioner

Commissioner



STATE TAX COMMISSION

### 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

ADDRESS YOUR REPLY TO

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY

MILTON KOERNER

Dated:

Albany, New York

June 28, 1972

Francesco von Mendelssohn c/o Horst Kurnik, Esq. 27 William Street New York 5, New York Gentlemen:

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

Please take further notice that pursuant to Section(s) 375 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 90 Days from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very truly/yours,

Paul B. Coburn HEARING OFFICER

Enc.

cc: Petitioner's Representative Law Bureau

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STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATIONS

OF

FRANCESCO VON MENDELSSOHN

DETERMINATION

FOR REVISION OR REFUND OF PERSONAL INCOME TAXES UNDER ARTICLE 16 OF THE TAX LAW FOR: THE YEARS 1954 AND 1955

Francesco von Mendelssohn having duly filed applications for revision or refund of personal income taxes assessed under Article 16 of the Tax Law for the calendar years 1954 and 1955, and a hearing having been held in connection therewith on January 8, 1963 at the office of the State Tax Commission, 80 Centre Street, New York, New York before Martin Schapiro, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayer, now deceased, was represented by Titus H. Konther and Horst Kurnik, Esqs., and the record having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That returns of income for the calendar years 1954 and 1955 were filed by the taxpayer showing income from trust in the amounts of \$10,273.12 and \$7,675.67 for each of the years 1954 and 1955, respectively; that thereafter assessments were issued on April 17, 1957 (Assessment No. B-273780 for the year 1954 and Assessment No. B-273781 for the year 1955) on the ground that the taxpayer in reporting income from trust should have been had erroneously deducted certain expenditures which/charged to the principal of the trust.

- (2) That on March 11, 1948 an <u>inter vivos</u> trust was established by the taxpayer herein and Eleonore von Mendelssohn, the grantors, providing for the payment of income to the aforesaid settlors or their survivors during their respective lives; that the trust agreement which gave the trustees power to invade the trust also provided for the termination of the trust upon the death of the survivors, or sooner in the sole discretion of the trusts and the distribution of the corpus of said trust to the heirs of such survivors.
- (3) That in May 1955 Eleonore von Mendelssohn died leaving debts greatly in excess of the amount of assets in her estate; that the trustees settled and compromised such debts in the amount of \$12,500 paying the same out of the principal of the trust and further charging the principal of the trust legal fees incurred in connection with the compromise. Such legal fees were deducted by the taxpayer in reporting income from trust.

Based upon the foregoing findings and all the evidence presented herein, the State Tax Commission hereby

#### DETERMINES:

- (A) That the legal fees chargeable to the corpus of the trust were not the obligations of the taxpayer, the beneficiary of said trust, and were not allowable as deductions under section 360 of the Tax Law, but that said obligations were the lawful obligations of the trust.
- (B) That accordingly, the additional taxes assessed against the taxpayer for the years 1954 and 1955 under Article 16 of the Tax Law are correct and do not include any taxes

or charges which are not lawfully due and owing.

DATED: Albany, New York, on the 28th day of June , 1972.

STATE TAX COMMISSION

Commissioner

Commissioner

Commissioner

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS ALBANY, N. Y. 12227 Moved, Left no artificial Noved, not forwarda.

Francesco yon Mendelssohn c/o Horst Kurnik, Esq. 27 Willam Street New York



STATE TAX COMMISSION

### 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

ADDRESS YOUR REPLY TO

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY

MILTON KOERNER

Dated:

Albany, New York

June 28, 1972

Francesco von Mendelssohn c/o Horst Kurnik, Esq. 27 William Street New York 5, New York Gentlemen:

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Please take further notice that pursuant to Section(s) 375 of the Tax Law, any proceeding in court to review an adverse decision must be commenced within 90 Days from 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 relative hereto may be addressed to the undersigned. These will be referred to the proper party for reply.

Very truly yours

Paul B. Coburn HEARING OFFICER

Enc.

cc:

Petitioner's Representative

Law Bureau

STATE OF NEW YORK STATE TAX COUNTES THE

IN THE MATTER OF THE APPLICATIONS

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Article 16 of the Rux Law for the enlanter years 1976 and 1975,
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80 Centre Street, New York, New York tedage Hartin Inhapites,
Hearing Officer of the Department of Taxation and Financia, at
thick hearing the tempayor, new deceased, was represented by
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- (3) That accordingly, the editional terms accordingly, the editional terms accordingly, against the temperature for the years 37% and 39% under Additional to of the Sax Lors are convect and do not include any hours.

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DATED: Alberry, Nov York, on the 28th day of June , 1872.

STATE TAX COMMENS NO

Norman Jachan

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Department of Taxation and Finance STATE OF NEW YORK STATE CAMPUS

ALBANY, N. Y. 12227

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New York, New York 27 William Street

Titus H. Kohther, Esq.