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PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CALVIN LADER & MURIEL LADER

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) 1968

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 9th day of July , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Calvin & Muriel
Lader (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Calvin & Muriel Lader
3410-G Paul Avenue
Bronx, New York 10468

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

9th day of July , 1973.

Lynn Wilson

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

July 9, 1973

Calvin & Muriel Lader
3410-G Paul Avenue
Bronx, New York 10468

Dear Mr. & Mrs. Lader:

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	:	
CALVIN LADER and MURIEL LADER	:	DECISION
for Redetermination of Deficiency or	:	
for Refund of Personal Income Tax	:	
under Article 22 of the Tax Law for	:	
the Year 1968.	:	

Petitioners, Calvin Lader and Muriel Lader, filed a petition pursuant to section 689 of the Tax Law for redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1968.

A hearing was held on February 6, 1973, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, before Nigel G. Wright, Hearing Officer. Petitioner, Calvin Lader, appeared in person and without a representative. The Income Tax Bureau was represented by Saul Heckelman, Esq., (James Scott, Esq., of Counsel).

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

ISSUES

I. The primary issue is whether the petitioner, Calvin Lader, is engaged in the production of art works as a trade or business so as to justify the deduction of certain business expenses and the expenses and depreciation of an automobile.

II. Secondary issues are the substantiation of amounts claimed for contributions and for casualty loss by theft.

FINDINGS OF FACT

1. Petitioner, Calvin Lader, graduated from New York University Art School in 1949, receiving a degree in art. From 1949 to 1953, he supported himself by selling the paintings he produced. Petitioner married in 1953 and from 1953 to 1968 has held various jobs. Most of these jobs have centered around some form of art activity. In addition, petitioner has continuously created paintings and sculpture for sale. Petitioner's works have been displayed on numerous occasions at various art galleries in New York City. Attempts have been made by petitioner to acquire a permanent spot as an exhibitor in these galleries.

2. An art studio was maintained by petitioner, Calvin Lader, in the South Bronx. The rent was approximately \$70.00 per month.

3. Petitioner, Calvin Lader, reported income of \$225.00 from sale of his art during 1968. He has gross up to \$2,000.00 in one previous year and his gross receipts for the two preceding years were \$140.00 and \$250.00. Petitioner also worked as a substitute teacher during 1968, usually instructing art classes. Petitioner received \$1,399.87 for his services as a teacher.

Petitioner, Muriel Lader, has been the main source of both petitioners' income from which they also support their two children.

4. Petitioner, Calvin Lader, claims \$3,505.79 as business expenses which were taken on the return. He was allowed \$888.74 by the Income Tax Bureau. Receipts for materials and supplies have been submitted which exceed the allowance.

Petitioner, Calvin Lader, has submitted no records to substantiate the deduction for expenses and depreciation on his

automobile.

5. Petitioner, Calvin Lader, claims contributions of \$295.00 on his return and was allowed \$78.00. No further evidence has been submitted to substantiate this deduction.

6. Petitioner, Calvin Lader, claims \$867.00 as a casualty loss by theft on his return and was allowed nothing. The theft was reported to the 41st Precinct in New York City on August 27, 1968. A number of personal items and cash was taken.

Petitioner has submitted a receipt for a Persian Lamb coat for \$349.00 from Macy's. Two hundred dollars was claimed by petitioner as the fair market value of the coat at the time it was stolen. No further evidence has been submitted to substantiate the value of the other items taken.

CONCLUSIONS OF LAW

A. Petitioner, Calvin Lader, is engaged in the trade or business of being an artist, Sebastian DeGrazier, T.C. Memo, 1962-296. It is clear that the petitioner has incurred some of the business expenses claimed, Cohan v. Commissioner, 39 F. 2d 540. The business expenses incurred amount to \$2,000.00.

B. The casualty loss is allowed to the amount of \$200.00 less the statutory deduction of \$100.00.

C. The disallowance of unsubstantiated contributions is proper.

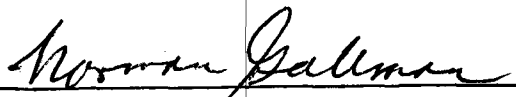
DECISION

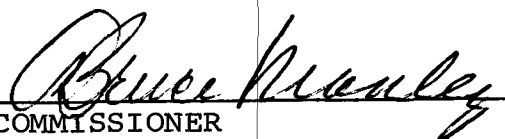
Petitioner is allowed \$2,000.00 as business expenses and \$200.00 as a casualty loss, less the statutory deduction of

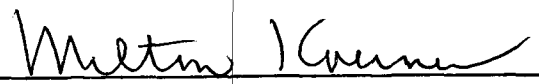
\$100.00; in all other respects the petition is denied, and the deficiency is modified to be \$174.73 plus interest of \$23.09 to the date of the deficiency, together with such further interest as may be due pursuant to section 684 of the Tax Law.

DATED: Albany, New York
July 9, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER