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QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
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PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

JACK MODEL and PEGGY MODEL

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) 1970

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

State of New York  
County of Albany

Janet Mack, 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 25th day of November, 1974, she served the within Notice of Decision ~~(BY REGISTERED MAIL)~~ by ~~(REGISTERED)~~ mail upon Jack Model and Peggy Model ~~(representative of)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Jack Model  
2856 N.E. 36th Street  
Ft. Lauderdale, Florida 33308

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)~~ ~~(R)~~ 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  
25th day of November, 1974

Martha Suarez

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
JACK MODEL and PEGGY MODEL

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

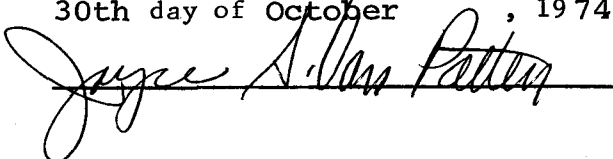
For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article (8) 22 of the  
Tax Law for the Year (8) 1970


State of New York  
County of Albany

Janet Mack, 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 30th day of October, 1974, she served the within Notice of Decision (or Determination) by (certified) mail upon Jack Model and Peggy Model (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Jack Model  
384 Skitrail  
Smoke Rise  
Butler, New Jersey  
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  
30th day of October, 1974





STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

JACK MODEL and PEGGY MODEL

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~~ 1970

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

State of New York  
County of Albany

Janet Mack , 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 30th day of October , 19 74, she served the within Notice of Decision (or Determination) by (certified) mail upon Abe S. Chouake, Esq.

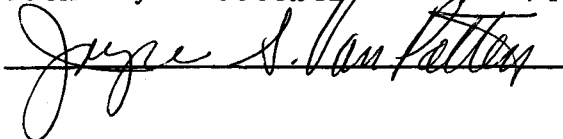
(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Abe S. Chouake, Esq.  
70 Middle Neck Road  
Great Neck, New York 11201

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

30th day of October, 1974

  
\_\_\_\_\_  
Judge S. Van Patten

  
\_\_\_\_\_  
Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**DATED:** Albany, New York  
**October 30, 1974**

**Mr. & Mrs. Jack Model**  
**384 Skitrail**  
**Smoke Rise**  
**Butler, New Jersey**

**Dear Mr. & Mrs. Model:**

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

Please take further notice that pursuant to  
Section(x) **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
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

AD-1.12 (8/73)



FINDINGS OF FACT

1. Petitioners, Jack Model and Peggy Model, filed a New York State income tax nonresident return for the year 1970. They omitted from New York income of said return, \$50,000.00 received by petitioner, Jack Model, from Louis R. Shapiro, Inc., "For cancellation of employment agreement for future services". They claimed a refund of \$1,815.02.

2. On April 10, 1972, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Jack Model and Peggy Model, imposing additional personal income tax for the year 1970 in the sum of \$3,734.64, upon the grounds that the \$50,000.00 received by petitioner, Jack Model, from Louis R. Shapiro, Inc. during said year constituted wage continuation payments fully taxable to New York State. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$3,955.99.

3. Petitioners, Jack Model and Peggy Model, were residents of the State of New Jersey during the years 1969 and 1970. They resided at 384 Ski Trail, Smoke Rise, Butler, New Jersey.

4. In September, 1969, petitioner, Jack Model, purchased 50% of the stock of Louis R. Shapiro, Inc., from Rae Shapiro. He entered into a stockholders agreement with Louis R. Shapiro, and the aforesaid parties in connection with said purchase. The agreement provided that he was to be president and a director of the corporation and was to receive a salary of \$52,000.00 a year for five years.

5. Petitioner, Jack Model, worked for Louis R. Shapiro, Inc. for a period of three months and received \$12,000.00 in salary. He worked in the offices of the corporation located at 2150 Broadway, New York, New York. He thereafter terminated his employment with the corporation due to differences with the other principals concerning the operation of the corporation and salary disputes and claims.

6. On March 26, 1970, petitioner, Jack Model, entered into a written agreement with Louis R. Shapiro, Inc. pursuant to which he sold the stock he owned in the corporation back to it for the sum of \$40,000.00 payable in four quarterly installments. The agreement further provided that the corporation would pay and he would accept the sum of \$50,000.00 "in full settlement, satisfaction, compromise and discharge of any and all claims by MODEL for salary or other compensation of any nature whatsoever, that he may have against the CORPORATION", pursuant to the aforesaid September, 1969, agreement. The sum of \$50,000.00 was paid to him by the corporation in 1970.

CONCLUSIONS OF LAW

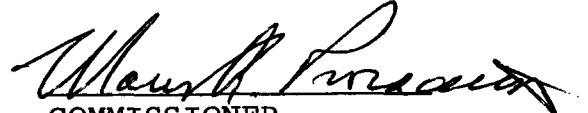
A. That the \$50,000.00 received by petitioner, Jack Model, from Louis R. Shapiro, Inc., during the year 1970 constituted income received as severance pay and not income derived from the sale of stock of said corporation. The said payment constituted an item of income derived from or connected with New York sources which was attributable to an occupation carried on in New York State, and, therefore, said payment was subject to New York State personal income tax in accordance with the meaning and intent of section 632 (b) (1) (B) of the Tax Law.



B. That the petition of Jack Model and Peggy Model is denied and the Notice of Deficiency issued April 10, 1972, is sustained.

DATED: Albany, New York  
October 30, 1974

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

AD 52 (6-73) 250M

STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227

NOV - 4 1974

1st NOTICE

2nd NOTICE

RETURN NOV 20 1974



*Handwritten note:*  
The following is a copy of the original letter to the State of New York  
6

Mr. & Mrs. Jack Model

~~384 SKENETAIL~~

~~SMOKE RISE~~

~~BUFILE NEW JERSEY~~

UNCLAIMED

~~NE 36 45th~~

2856

Fla.

Ft. Lauderdale, 33308

CERTIFIED

No. 201996

MAIL