

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASTON BERTHELOT

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 ~~REGISTERED~~ 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 23rd day of May, 1975, she served the within
Notice of Decision ~~(for Redetermination)~~ by ~~(registered)~~ mail upon GASTON BERTHELOT

~~(represented by)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

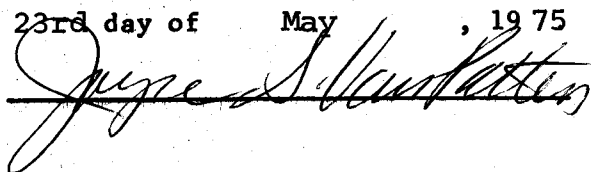
Mr. Gaston Berthelot
9 Place des Vosges
Paris, IV, France

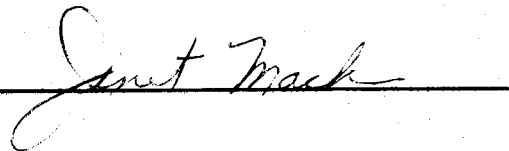
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

23rd day of May, 1975





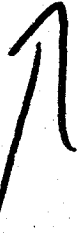
AD 32 (8-74) 50M

STATE OF NEW YORK

Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227



Return to writer

*No certified mail
service provided
to foreign country*

Mr. Gaston Berthelot

9 Place des Vosges

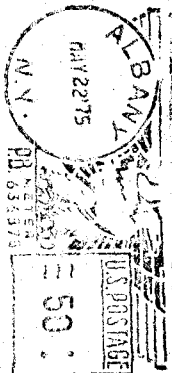
Paris, IV, France

CERTIFIED

No. 201534

MAIL

Mr. Rask



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASTON BERTHELOT

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

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 22nd day of May, 1975, she served the within
Notice of Decision ~~(xx) (Tax Law Section)~~ by (certified) mail upon GASTON BERTHELOT

~~(xx) (Representative of the)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Mr. Gaston Berthelot
9 Place des Vosges
Paris, IV, France

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 the)~~
~~xx~~ 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

22nd day of May, 1975.

Joyce S. Van Peltten

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASTON BERTHELOT

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(a)~~ 22 of the
Tax Law for the Year ~~(a)~~ 1968.

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 22nd day of May, 1975, she served the within
Notice of Decision (~~xx Determination~~) by (certified) mail upon GEORGE RUBINOFF, 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:

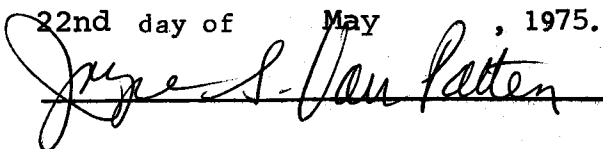
George Rubinoff, C.P.A.
14-25 Plaza Road
Fairlawn, New Jersey 07410

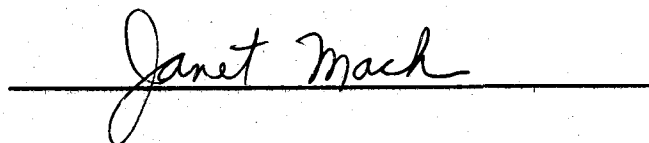
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

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

22nd day of May, 1975.


Joseph 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

~~James H. Tully, Jr.~~ 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
May 22, 1975

Mr. Gaston Berthelot
9 Place des Vignes
Paris, IV, France

Dear Mr. Berthelot:

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

Please take further notice that pursuant to
Section ~~(a)~~ **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,

Nigel G. Wright
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
	:	
of	:	
GASTON BERTHELOT	:	DECISION
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1968.	:	

Gaston Berthelot, 9 Place des Vosges, Paris, IV, France, filed a petition under section 689 of the Tax Law for a redetermination of a deficiency in personal income tax under Article 22 of the Tax Law for the year 1968.

Said deficiency was asserted by notice issued April 10, 1972, under File No. 8-16346156 and is in the amount of \$1,258.26 plus interest of \$225.57 for a total of \$1,483.83.

In lieu of a hearing, petitioner submits his case to the Commission for a decision on the file of the Income Tax Bureau.

Said file has been duly examined and considered.

ISSUE

The issue in the case is the propriety of certain deductions for photography and public relations fees.

FINDINGS OF FACT

1. Petitioner resided at 400 East 57 Street, New York, New York. He listed his occupation as designer. He was employed by

Christian Dior, New York, which had offices at 498 Seventh Avenue, New York, New York.

2. Petitioner was the joint owner of certain rental property with a David Massey. Petitioner and Mr. Massey also shared an apartment and had a joint bank account from which all disbursements were made.

3. Petitioner's 1968 tax return shows as deductions for employee business expenses the amount of \$10,000 as a photography fee paid to David Massey and \$182.80 for public relations.

4. Petitioner has not produced any checks or records to verify that the payments in question were, in fact, made. Petitioner has stated that his records for 1968 have been lost during a move to Paris, France in 1970.

5. Mr. Massey did report the \$10,000 as income on his own tax return. Petitioner has not produced Mr. Massey or any affidavit from Mr. Massey.

6. There is no evidence that the photographic fees in question, which allegedly involved photographing mannequins and drawings, or that the public relations fees were ordinary and necessary.

CONCLUSIONS OF LAW

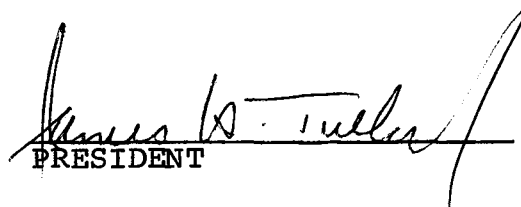
The mere fact that one person includes a certain amount in income does not imply that another person can take that amount as a deduction. In this case, an income-splitting arrangement between separate taxpayers cannot be precluded.

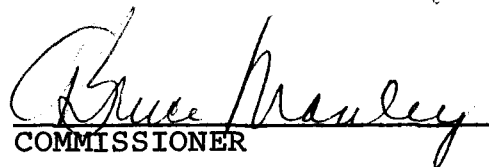
Petitioner has not carried the burden of proof that he is entitled to the deductions in question.

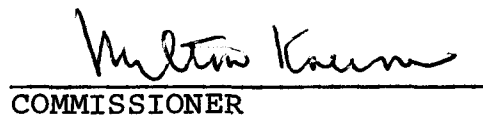
The deficiency is correct as issued and is due, together with such additional interest as shall be computed under section 681 of the Tax Law.

DATED: Albany, New York
May 22, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER