

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF HELEN TIEMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article ~~(x)~~ 22 of the
Tax Law for the Year(s) ~~or Period(s)~~
1972, 1973 and 1974.

State of New York
County of Albany

Marsina Donnini, 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 29th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Estate of Helen Tieman, Frank H. Reagan, ~~(representative of)~~ Executor of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed Estate of Helen Tieman as follows: Frank H. Reagan, Executor c/o Garry J. Fury, Esq. 22 West First Street Mount Vernon, New York 10550 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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~ 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
29th day of July, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ESTATE OF HELEN TIEMAN

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article (x) 22 of the
Tax Law for the Year(s) ~~or Period(s)~~
1972, 1973 and 1974.

State of New York
County of Albany

Marsina Donnini, 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 29th day of July, 1977, she served the within Notice of Decision by (certified) mail upon Garry J. Fury

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Garry J. Fury, Esq.
22 West First Street
Mount Vernon, New York 10550

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative of the) 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

29th day of July, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

July 29, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

**Estate of Helen Tieman
Frank H. Reagan, Executor
c/o Garry J. Fury, Esq.
22 West First Street
Mount Vernon, New York 10550**

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

You have now exhausted your right of review at the administrative level. Pursuant to section **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywat
Hearing Examiner**

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ESTATE OF HELEN TIEMAN
for Redetermination of a Deficiency or for
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Years
1972, 1973 and 1974.

: DECISION

Petitioner, Estate of Helen Tieman, Frank H. Reagan, Executor, residing at 22 West First Street, Mount Vernon, New York 10550, has filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1972, 1973 and 1974. (File No. 11503).

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on January 28, 1977 at 2:45 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Garry J. Fury. The Income Tax Bureau appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUE

Whether \$30,940.00 found in two safe deposit boxes rented by the decedent, Helen Tieman, should be included in gross income for the years 1972, 1973 and 1974.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Helen Tieman died on January 4, 1975 at the age of 74 years. After her death, two safe deposit boxes were opened, one at Chemical Bank, which contained cash in the amount of \$20,440.00, and another at Eastchester Savings Bank, which contained cash in the amount of \$10,500.00. In addition, a number of United States Series E. Savings Bonds, documents and various items of jewelry were found in the two boxes.

2. The report of the New York State Estate Tax box opener revealed that \$1,000.00 of the cash was found in an envelope bearing the notation "Helen Tieman ITF Ruth H. Tieman, c/o Frank H. Reagan, Atty" and that \$9,000.00 was found in another envelope marked "Helen Tieman - Frank H. Reagan \$9,000 Nine Thousand dollars or (90 - 100 dollar bills) ITF Ruth H. Tieman, daughter".

3. The boxes at Chemical Bank and Eastchester Savings Bank were rented by the decedent December 1, 1948 and September 6, 1960, respectively.

4. Helen Tieman was a New York State employee from September 16, 1941 to April 30, 1968, when she retired. She received a New York State pension, in addition to social security payments.

5. Helen Tieman was also employed, on a part-time basis, by the Mount Vernon Public Library from January 16, 1944 to April 30, 1968.

6. The petitioner's representative, Garry J. Fury, asserted that these monies may have been received as an inheritance, when her husband died in 1932, or when several parcels of real estate were sold in 1937, 1939 and 1940, or when a large number of stocks were sold. However, he could not specify the amounts of money involved in the inheritance or the other transactions.

7. It was also asserted that the monies may have been accumulated during her period of employment of January 1, 1944 through April 30, 1968. To justify this contention, a list of decedent's United States savings bonds was submitted which indicated that they were issued between 1944 and 1953. The total face value of these bonds was \$5,100.00.

8. Decedent had also maintained two savings accounts: one at Chemical Bank in trust for her son, William Tieman, with a balance of \$9,377.38 and another at Eastchester Savings Bank in trust for her daughter, Ruth H. Tieman, with a balance of \$27,357.97.

9. Copies of the Federal income tax returns filed indicated that the only sources of taxable income claimed by Helen Tieman, in 1972 and 1973, were bank interest and a New York State pension. A New York State personal income tax return filed by Frank H. Reagan, on behalf of Helen Tieman for the year 1974, indicated the same sources of income. Income from the New York State pension, however, is exempt from New York State income tax.

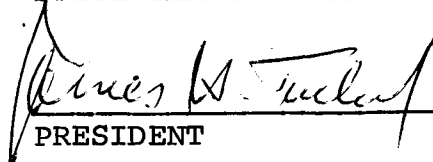
10. The Income Tax Bureau failed to use any of the standard audit techniques and procedures which should be utilized in determining tax liability under such circumstances.

11. Sufficient information has been submitted by petitioner to sustain the burden of proof in accordance with section 689(e) of the Tax Law, that the money found in the safe deposit boxes was accumulated during the lifetime of Helen Tieman, and that taxes were properly paid on these monies.

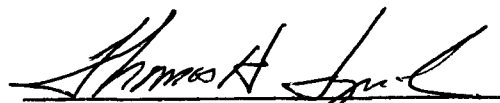
12. The petition of the Estate of Helen Tieman is granted and the Notice of Deficiency issued January 26, 1976 is cancelled.

DATED: Albany, New York
July 29, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER