

United States
Circuit Court of Appeals

For the Ninth Circuit. 4

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent,

and

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Transcript of Record.

Upon Petition to Review an Order of the United States
Board of Tax Appeals.

FILED

APR 23 1931

United States
Circuit Court of Appeals
For the Ninth Circuit.

MARY C. YOUNG,

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vs.

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and

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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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[1*] DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

APPEARANCES.

For Petitioner: THEO. B. BENSON, Esq.,

For Respondent: W. F. GIBBS, Esq.

DOCKET ENTRIES.

1928.

July 16—Petition received and filed. Taxpayer notified (fee paid).

July 17—Copy of petition served on General Counsel.

Sept. 13—Answer filed by General Counsel.

Sept. 15—Copy of answer served on taxpayer—General Calendar.

1929.

Dec. 6—Hearing set 2/24/30.

1930.

Feb. 24—Hearing had before Mr. Murdock on merits. Submitted on stipulation and record. Ordered consolidated for hearing and decision. Briefs due in 30 days.

*Page-number appearing at the top of page of original certified Transcript of Record.

- Feb. 24—Motion to consolidate with 39,825 filed at hearing by taxpayer—granted.
- Mar. 3—Transcript of hearing of Feb. 24, 1930, filed.
- Mar. 24—Motion for hearing on brief filed by taxpayer, 4/8/30 motion denied.
- Mar. 24—Brief filed by taxpayer.
- Mar. 24—Brief filed by General Counsel.
- Sept. 8—Findings of fact and opinion rendered—Annabel Matthews, Division 13. Judgment will be entered for respondent.
- Sept. 10—Decision entered—Annabel Matthews, Division 13.
- Dec. 20—Supersedeas bond in the amount of \$10,094.96 approved and ordered filed.

1931.

- Jan. 13—Petition for review by U. S. Circuit Court of Appeals (9) with assignments of error filed by taxpayer.
- Jan. 13—Proof of service filed.
- Jan. 13—Praecipe filed—proof of service thereon.
- Jan. 23—Motion for extension of 10 days to file objections to praecipe filed by General Counsel.
- Jan. 23—Motion granted.

Now, Feb. 24, 1931, the foregoing Docket Entries certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[2] DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

APPEARANCES.

For Petitioner: THEO. B. BENSON, Esq.,

For Respondent: W. F. GIBBS, Esq.

DOCKET ENTRIES.

1928.

July 16—Petition received and filed. Taxpayer notified (fee paid).

July 17—Copy of petition served on General Counsel.

Sept. 13—Answer filed by General Counsel.

Sept. 15—Copy of answer served on taxpayer—General Calendar.

1929.

Dec. 6—Hearing set 2/24/30.

1930.

Feb. 24—Hearing had before John E. Murdock, Division 3, on merits. Submitted on stipulation and record. Ordered consolidated for hearing and decision. Briefs due in 30 days.

Feb. 24—Motion to consolidate with 39,824 filed by taxpayer at hearing—granted.

- Mar. 3—Transcript of hearing of Feb. 24, 1930, filed.
- Mar. 24—Motion for hearing on brief filed by taxpayer. See 39,824. 4/8/30 denied.
- Mar. 24—Brief filed by taxpayer.
- Mar. 24—Brief filed by General Counsel.
- Sept. 8—Findings of fact and opinion rendered—Annabel Mathews, Division 13. Judgment will be entered for respondent.
- Sept. 10—Decision entered—Annabel Matthews, Division 13.
- Dec. 20—Supersedeas bond in the amount of \$9,833.68 approved and ordered filed.

1931.

- Jan. 13—Petition for review by U. S. Circuit Court of Appeals (9th) with assignments of error filed by taxpayer.
- Jan. 13—Proof of service filed.
- Jan. 13—Praecipe filed—proof of service thereon.
- Jan. 23—Motion for 10 days extension to file objections to praecipe filed by General Counsel. Granted.

Now, Feb. 24, 1931, the foregoing Docket Entries certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[3] Filed Jul. 16, 1928. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,824.

MARY YOUNG MOORE, 1001 South Hoover
Street, Los Angeles, California,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION.

The above-named petitioner hereby petitions for a re-determination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency IT:AR:B-8-LMM-60D, dated May 16, 1928, and as a basis of its proceeding alleges as follows:

1. The petitioner is an unmarried woman with residence at 1001 South Hoover Street, City of Los Angeles, State of California.

2. The notice of deficiency (a copy of which is attached hereto marked Exhibit "A") was mailed to the petitioner on May 16, 1928, and alleges a deficiency in tax for the calendar years 1924 and 1925 of \$2,930.06 and \$2,117.42, respectively, and pursuant thereto petitioner's appeal to this Board has been perfected within the period of sixty (60) days, as prescribed by the Revenue Act of 1928.

3. The taxes in controversy are individual income taxes for the calendar years 1924 and 1925, and in an amount of less than \$10,000.00.

4. The determination of tax set forth in said notice of deficiency is based upon the following errors:

For Year 1924.

(a) That the Commissioner of Internal Revenue failed to allow as a deduction in computing net income for the year 1924 the loss sustained by petitioner on account of the voluntary demolition in 1924 of several old buildings owned by the petitioner jointly, petitioner's share of the loss on said demolition being \$21,107.50.

[4] (b) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the year 1924 the sum of \$10,750.00, said sum being expended by petitioner as commission to an agent for securing in 1924 a 99-year lease of certain real property jointly owned by petitioner.

(c) That the Commissioner of Internal Revenue failed to allow a deduction in computing the net income for the year 1924 the sum of \$2,750.00, said sum being attorneys' fees expended by the petitioner in 1924.

(d) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the year 1924 the sum of \$2,251.43, said sum being expended by petitioner as title costs.

(e) That should the Board sustain petitioner's allegations of error 4(a), (b), (c), and (d) above, and 4(f) below, then the Commissioner of Internal Revenue incorrectly allowed as a deduction in computing the net income for the year 1924 the sum of

\$513.59, said sum being so-called amortization of the alleged cost of securing the 99-year lease referred to in (b) above, at the rate of 1% of the amounts expended or sustained as outlined in 4(a), (b), (c), and (d) above, and 4(f) below, but should the Board sustain but a portion of the allegations 4(a), (b), (c), (d) and (f), then that proportionate part thereof at the rate of 1% should be considered as being erroneously allowed as a deduction.

For Year 1925.

(f) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the year 1925, the sum of \$14,500.00, said sum being expended by petitioner in the year 1925 as the balance of commission to an agent for securing in 1924 the 99-year lease of certain real property jointly owned by the petitioner.

(g) That should the Board sustain petitioner's allegations of error 4(a), (b), (c), (d) and (f) above, then the Commissioner of Internal Revenue incorrectly allowed as a deduction in computing the net income for the year 1925 the sum of \$513.59, said sum being so-called amortization of the alleged cost of securing the 99-year lease referred to in (b) above, at the rate of 1% per annum of the amount expended or sustained as outlined in 4(a), (b), (c), (d), and (f) above, but should the Board sustain but a portion of the allegations 4(a), (b), (c), (d) and (f), then that proportionate part thereof at the rate of 1% should be considered as being erroneously allowed as a deduction.

5. The facts upon which taxpayer relies as a basis for this proceeding are as follows:

[5] (a-1) Petitioner is the owner in joint of 50% interest with Mary C. Young of certain real and personal property, among which is that real property situated in the City of Los Angeles and located at the Southeast corner of Seventh and Figueroa Streets, extending East on Seventh Street to the Southwest corner of Flower and Seventh Streets.

(a-2) In 1917 and 1918 petitioner and Mary C. Young, co-owners, erected on this real property several brick store buildings which cost of erection of the buildings amounted to \$50,000.00.

(a-3) These buildings were rented or were for rent throughout the period from completion until 1924.

(a-4) In the latter part of the year 1924, petitioner voluntarily caused to be demolished and destroyed all of these several store buildings erected in 1917 and 1918 at a cost of \$50,000.00.

(a-5) The depreciation sustained on the demolished buildings from date of erection until demolition in 1924 at the rate of 3% per annum amounts to \$7,785.00.

(a-6) The net depreciated cost to petitioner and Mary C. Young, each having a 50% interest of the demolished buildings, as at date of demolition in 1924, amounts to \$42,215.00.

(a-7) Petitioner nor her co-owner never received any insurance money or salvage value on account of the demolition of the buildings.

(a-8) Petitioner claimed as a deduction on her original income tax return for 1924 the amount of \$21,107.50 as her one-half of a loss sustained on the demolition of the buildings.

(a-9) The Commissioner disallowed this amount of \$21,107.50, and added the same back to net income, and the deficiency determined for 1924 is due in part to the disallowance of this deduction.

(b-1) Petitioner and Mary C. Young on October 1, 1924, ground-leased to the Sun Realty Company, for a period of ninety-nine (99) years, the real property situated at the Southeast corner of Seventh and Figueroa Streets extending East on Seventh Street to Flower Street, as mentioned in statement 5(a-1) above.

(b-2) This lease was obtained for petitioner by an agent, which agent charged petitioner and Mary C. Young a total commission of \$50,500.00 for obtaining this lease.

(b-3) Of this \$50,500.00 commission for obtaining the lease \$21,500.00 was paid in 1924, and \$29,000 was paid in 1925.

(b-4) Petitioner paid to the agent her one-half of this commission in cash, as follows:

[6] In Year 1924	\$10,750.00
In Year 1925	14,500.00

(b-5) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A the amount of \$10,750.00 as an ordinary and necessary expense in conducting her rental business.

(b-6) The Commissioner of Internal Revenue disallowed this deduction of \$10,750.00, and the defi-

ciency determined for 1924 is in part due to the disallowance of this deduction.

(b-7) Petitioner kept her books and rendered her income tax return for the year 1924 on the cash receipts and disbursements basis.

(c-1) Petitioner expended in cash during the year 1924 the amount of \$2,750.00, being one-half of a total of \$5,500.00, as attorneys' fees paid in connection with the preparation of the lease mentioned in 5(b-1) above.

(c-2) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A this amount of \$2,750.00 as an ordinary and necessary expense in conducting her rental business.

(c-3) The Commissioner of Internal Revenue disallowed this deduction of \$2,750.00, and the deficiency determined for 1924 is in part due to the disallowance of this deduction.

(d-1) Petitioner expended in cash during the year 1924 the amount of \$2,251.43 (being her one-half of \$4,502.85) for obtaining a certificate of title, which was required by the lessee of the lease mentioned in 5(b-1) above.

(d-2) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A thereof this amount of \$2,251.43 as an ordinary and necessary expense in conducting her rental business.

(d-3) The Commissioner of Internal Revenue disallowed this deduction of \$2,251.43, and the deficiency determined for 1924 is in part due to the disallowance of this deduction.

(e-1) The Commissioner of Internal Revenue capitalized the deductions and losses referred to in 4(a), (b), (c), (d), and (f), and has allowed a deduction of 1% thereof for the year 1924 as amortization of the cost of the lease.

(f-1) Petitioner expended in cash during the year 1925 the amount of \$14,500.00 (being her one-half of \$29,000.00) as balance of commission due the agent for obtaining the lease referred to in 5(b-1) to 5(b-4) inclusive, above.

(f-2) Petitioner claimed as a deduction on her original income tax return for the year 1925 in Schedule A thereof this amount of \$14,500.00 as an ordinary and necessary expense in [7] conducting her rental business.

(f-3) The Commissioner of Internal Revenue disallowed this deduction of \$14,500.00, and the deficiency determined for the year 1925 is in part due to the disallowance of this deduction.

(f-4) Petitioner kept her books and rendered her income tax return for the year 1925 on the cash receipts and disbursements basis.

(g-1) The Commissioner of Internal Revenue allowed as a deduction for 1925 as amortization of cost of a lease 1% of the amounts of the deductions and loss sustained, per 4 (a), (b), (c), (d), and (f) above.

WHEREFORE, the petitioner prays that this Board may hear the proceeding and

(a) Allow as a deduction in computing net income the loss sustained in the year 1924 in the

amount of \$21,107.50 on account of demolition of buildings.

(b) Allow as a deduction in computing net income for the year 1924 the amount of \$10,750.00, being commission paid in that year.

(c) Allow as a deduction in computing net income for the year 1924 the amount of \$2,750.00, being attorneys' fees paid in that year.

(d) Allow as a deduction in computing net income for the year 1924, the amount of \$2,251.43, being title costs paid in that year.

(e) Allow the restoration to net income for the year 1924 of the amount of \$513.59, amortization of cost of lease, said restoration to be made only upon allowance of (a), (b), (c), (d), and (f).

(f) Allow as a deduction in computing the net income for the year 1925 the amount of \$14,500.00, being commissions paid in that year.

(g) Allow the restoration to net income for 1925 the amount of \$513.59, amortization of cost of lease, said restoration to be made only upon allowance of (a), (b), (c), (d), and (f),

And such other relief as the premises may justify.

THEODORE B. BENSON,

917 Southern Building, Washington, D. C.,

Counsel for Petitioner.

[8] State of California,
County of Los Angeles,—ss.

Mary Young Moore, hereby duly sworn, says that she is the petitioner above named, that she has read the foregoing petition, or had the same read to her, and is familiar with the statements contained

therein, and that the facts stated are true, except as to those facts stated to be upon information and belief, and those facts she believes to be true.

MARY YOUNG MOORE.

MARY YOUNG MOORE.

Subscribed and sworn to before me this 11th day of July, 1928.

[Seal]

MARY S. ALEXANDER,
Notary Public.

[9] EXHIBIT "A."

TREASURY DEPARTMENT.

Washington.

May 16, 1928.

(Seal)

Office of

Commissioner of Internal Revenue

Address Reply to

Commissioner of Internal Revenue

And Refer to

Mrs. Mary Young Moore,

1001 South Hoover Street,

Los Angeles, California.

Madam:

In accordance with Section 274 of the Revenue Act of 1926 you are advised that the determination of your tax liability for the years 1924, 1925 and 1926 discloses a deficiency of \$5,047.48, as shown in the attached statement.

The section of the law above mentioned allows you an appeal to the United States Board of Tax

Appeals within sixty days from the date of the mailing of this letter. However, if you acquiesce in this determination, you are requested to execute the inclosed Form A and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:C:P:-7.

Respectfully,

D. H. BLAIR,
Commissioner.

By C. B. ALLEN,
Deputy Commissioner.

Inclosures:

Statement.

Form A.

Form 882.

[10] STATEMENT.

May 16, 1928.

IT:AR:B-8.

LMM.

In re: Mrs. Mary Young Moore,
1001 South Hoover Street,
Los Angeles, California.

Year.	Deficiency.
1924	\$2,930.06
1925	2,117.42
1926	None

Total \$5,047.48

The report of the Internal Revenue Agent in Charge at San Francisco, California, covering your

income tax liability for the years 1924, 1925 and 1926 has been reviewed and approved by this office.

1924.

Net income reported on return\$ 3,419.56

Add:

- | | |
|--|-----------|
| 1. Loss disallowed on account of
demolition of buildings and ex-
penses with securing 99-year
lease | 36,345.31 |
|--|-----------|

Total	\$39,764.87
-------------	-------------

Deduct:

- | | |
|--|-----------------------|
| 2. Additional depreciation
on furniture and fix-
tures | \$ 90.00 |
| 3. Increase in contribu-
tions | 5438.30 5,528.30 |

Adjusted net income	\$34,236.57
---------------------------	-------------

Income subject to tax	\$34,236.57
-----------------------------	-------------

Less:

- | | |
|------------------------------------|------------------------|
| Dividends | \$ 590.00 |
| Interest on Liberty
bonds | 1,912.50 |
| Personal exemption | 1,000.00 3,502.50 |

Income subject to normal tax	\$30,734.07
------------------------------------	-------------

[11]

Mrs. Mary Young Moore	Statement
Normal tax at 2% on \$4,000.00	\$ 80.00
Normal tax at 4% on \$4,000.00	160.00

Normal tax at 6% on \$22,734.07	1,364.04
Surtax on \$34,236.57	1,346.02
	<hr/>
Total tax	\$2,950.06
Earned income credit	20.00
	<hr/>
Balance	\$2,930.06
Tax previously assessed	None
	<hr/>
Deficiency in tax	\$2,930.06

Explanation of Changes.

1. Since the lease acquired had a definite life of 99 years, the cost of the buildings less sustained depreciation and the costs of securing the lease, have been amortized over the life of the lease.

The total commission paid for securing the lease of lot was \$50,500.00, the amount of \$21,500.00 being paid in 1924 and \$29,000.00 in 1925.

The following items have been disallowed and spread over the life of the lease:

Depreciated cost of old buildings	\$ 42,215.00
Real estate commissions for securing lease	50,500.00
Attorney's fees in connection with lease ..	5,500.00
Title costs	4,502.85
	<hr/>
Total	\$102,717.85

1% of \$102,717.85 or \$1,027.18 is deductible each year during life of lease. One-half of \$1,027.18 or \$513.59 is your share.

Gross income from business

\$124,083.69.

[12] Mrs. Mary Young Moore		Statement
Brought forward	\$124,083.69	
Salaries	\$ 2,220.00	
Taxes	38,537.53	
Office rent	1,560.00	
Repairs	790.15	
Office supplies and expenses.	495.75	
Water bills	439.60	
Commissions	357.75	
Insurance	1,955.80	
Depreciation hotel building.	2,320.00	
Furniture and fixtures.....	300.00	
Amortization deductible each year over life of lease....	1,027.18	50,003.76
	<hr/>	<hr/>
Net income from business.....		\$ 74,079.93
One-half to each owner.....		\$ 37,039.97
Net income from business reported...		784.66
		<hr/>
Additions to income.....		\$ 36,255.31
Included in the amount of \$36,255.31 is additional depreciation of \$90.00 and shown separately by the agent..		90.00
		<hr/>
Additions shown by agent.....		\$ 36,345.31
Deductions:		
2. Depreciation on office furniture increased from 4% to 10%.		
Office furniture and fixtures.....		\$ 3,000.00
10% allowed		\$ 300.00
Previously deducted		120.00
		<hr/>
Additional allowable		\$ 180.00

Your share, one-half.....\$ 90.00

3. Additional contributions allowed on account
of 15% limitation of net income

1925.

Net income reported on return..... \$38,870.46

Additions:

1. Real estate commission..... 14,500.00

Total \$53,370.46

[13] Mrs. Mary Young Moore Statement

Brought forward ... \$53,370.46

Deduct:

2. Depreciation \$ 90.00

3. Adjustment of amorti-
zation of building
and expenses secur-
ing lease..... 513.59

4. Contributions 1,278.01 1,881.60

Adjusted net income.....\$51,488.86

Income subject to tax.....\$51,488.86

Less:

Dividends \$ 280.00

Interest on Liberty Bonds. 1,912.50

Personal exemption 1,500.00 3,692.50

Income subject to normal tax.....\$47,796.36

Normal tax at 1 1/2% on \$ 4,000.00.... \$ 60.00

Normal tax at 3% on \$ 4,000.00.... 120.00

Normal tax at 5% on 39,796.36.... 1,989.82

Surtax on \$51,488.86..... 3,173.55

Total tax.....\$ 5,343.37

Earned income credit.....	13.13
<hr/>	
Net tax assessable.....	\$ 5,330.24
Tax previously assessed.....	3,212.82
<hr/>	
Deficiency in tax.....	\$ 2,117.42

Explanation of Changes.

1. Real estate commission of \$29,000.00 paid in 1925 in connection with securing lease in 1924 has been disallowed and added to other costs of securing lease to be amortized over the life of the lease. See 1924 adjustment of lease. One-half of \$29,000.00 or \$14,500.00 is your share.

2. 1% of \$102,717.85 (total of items disallowed and spread over the life of the lease) or \$1,027.18, One-half or \$513.59 is your share.

3. Adjustment of contributions on account of 15% limitation of net income.

[14] Mrs. Mary Young Moore Statement
1926.

No tax.

If the above explanations are satisfactory, it is suggested that you execute and return to this office the enclosed agreement waiving the right to appeal and consenting to immediate assessment in order that your case may be closed without delay.

Payment should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Now, Feb. 24, 1931, the foregoing petition certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[15] Filed Sep. 13, 1928. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ANSWER.

The Commissioner of Internal Revenue, by his attorney, C. M. Charest, General Counsel, Bureau of Internal Revenue, for answer to the petition filed in the above-entitled appeal admits and denies as follows:

1. Admits the allegations contained in paragraph 1.
2. Admits the allegations contained in paragraph 2.
3. Admits the allegations contained in paragraph 3.
4. Denies the respondent erred in the manner alleged and set forth in paragraphs 4(a), 4(b), 4(c), 4(d), 4(e), 4(f) and 4(g).

5 (a-1) Admits the allegations contained in paragraph 5 (a-1).

5 (a-2) Admits the allegations contained in paragraph 5 (a-2).

5 (a-3) Denies the allegations contained in paragraph 5 (a-3).

5 (a-4) Admits the allegations contained in paragraph 5 (a-4).

5 (a-5) Admits the allegations contained in paragraph 5 (a-5).

5 (a-6) Admits the allegations contained in paragraph 5 (a-6).

5 (a-7) Admits the allegations contained in paragraph 5 (a-7).

5 (a-8) Admits the allegations contained in paragraph 5 (a-8).

5 (a-9) Admits the allegations contained in paragraph 5 (a-9).

5 (b-1) Admits the allegations contained in paragraph 5 (b-1).

5 (b-2) Admits the allegations contained in paragraph 5 (b-2).

[16] 5 (b-3) Admits the allegations contained in paragraph 5 (b-3).

5 (b-4) Admits the allegations contained in paragraph 5 (b-4).

5 (b-5) Admits the allegations contained in paragraph 5 (b-5).

5 (b-6) Admits the allegations contained in paragraph 5 (b-6).

5 (b-7) Admits the allegations contained in paragraph 5 (b-7).

5 (c-1) Admits the allegations contained in paragraph 5 (c-1).

5 (c-2) Admits the allegations contained in paragraph 5 (c-2).

5 (c-3) Admits the allegations contained in paragraph 5 (c-3).

5 (d-1) Admits the allegations contained in paragraph 5 (d-1).

5 (d-2) Admits the allegations contained in paragraph 5 (d-2).

5 (d-3) Admits the allegations contained in paragraph 5 (d-3).

5 (e-1) Admits the allegations contained in paragraph 5 (e-1).

5 (f-1) Admits the allegations contained in paragraph 5 (f-1).

5 (f-2) Admits the allegations contained in paragraph 5 (f-2).

5 (f-3) Admits the allegations contained in paragraph 5 (f-3).

5 (f-4) Admits the allegations contained in paragraph 5 (f-4).

5 (g-1) Admits the allegations contained in paragraph 5 (g-1).

6. Denies generally and specifically each and every allegation contained in taxpayer's petition, not hereinbefore admitted, qualified or denied.

WHEREFORE, it is prayed that the taxpayer's appeal be denied.

(Signed) C. M. CHAREST.

C. M. CHAREST,

General Counsel,

Bureau of Internal Revenue.

Of Counsel:

W. FRANK GIBBS,
Special Atty.,
Bureau of Internal Revenue.

Now, Feb. 24, 1931, the foregoing answer certified from the record as a true copy.

[Seal] B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[17] Filed Jul. 16, 1928. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG, 1001 South Hoover Street, Los Angeles, California,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION.

The above-named petitioner hereby petitions for a re-determination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency IT: AR: B-8-LMM-60D, dated May 16, 1928, and as a basis of its proceeding alleges as follows:

1. The petitioner is a widow with residence at

1001 South Hoover Street, City of Los Angeles, State of California.

2. The notice of deficiency (a copy of which is attached hereto and marked Exhibit "A") was mailed to the petitioner on May 16, 1928, and alleges a deficiency in tax for the calendar years 1924 and 1925 of \$2,825.63 and \$2,091.21, respectively, and pursuant thereto petitioner's appeal to this Board has been perfected within the period of sixty days, as prescribed by the Revenue Act of 1928.

3. The taxes in controversy are individual income taxes for the calendar years 1924 and 1925, and in an amount of less than \$10,000.00.

4. The determination of tax set forth in said notice of deficiency is based upon the following errors:

For Year 1924.

(a) That the Commissioner of Internal Revenue failed to allow as a deduction in computing net income for the year 1924 the loss sustained by petitioner on account of the voluntary demolition in 1924 of several old buildings owned by the petitioner jointly, petitioner's share of the loss on said demolition being \$21,107.50.

(b) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the [18] year 1924 the sum of \$10,750.00, said sum being expended by petitioner as commission to an agent for securing in 1924 a 99-year lease of certain real property jointly owned by petitioner.

(c) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the

net income for the year 1924 the sum of \$2,750.00, said sum being attorneys' fees expended by the petitioner in 1924.

(d) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the year 1924 the sum of \$2,251.43, said sum being expended by petitioner as title costs.

(e) That should the Board sustain petitioner's allegations of error 4(a), (b), (c), and (d) above, and 4(f) below, then the Commissioner of Internal Revenue incorrectly allowed as a deduction in computing the net income for the year 1924 the sum of \$513.59, said sum being so-called amortization of the alleged cost of securing the 99-year lease referred to in (b) above, at the rate of 1% of the amounts expended or sustained as outlined in 4(a), (b), (c), and (d) above, and 4(f) below, but should the Board sustain but a portion of the allegations 4(a), (b), (c), (d), and (f), then that proportionate part thereof at the rate of 1% should be considered as being erroneously allowed as a deduction.

For Year 1925.

(f) That the Commissioner of Internal Revenue failed to allow as a deduction in computing the net income for the year 1925, the sum of \$14,500.00, said sum being expended by petitioner in the year 1925 as the balance of commission to an agent for securing in 1924 the 99-year lease of certain real property jointly owned by the petitioner.

(g) That should the Board sustain petitioner's allegations of error 4(a), (b), (c), (d), and

(f) above, then the Commissioner of Internal Revenue incorrectly allowed as a deduction in computing the net income for the year 1925 the sum of \$513.59, said sum being so-called amortization of the alleged cost of securing the 99-year lease referred to in (b) above, at the rate of 1% per annum of the amount expended or sustained as outlined in 4(a), (b), (c), (d), and (f) above, but should the Board sustain but a portion of the allegations 4(a), (b), (c), (d), and (f), then that proportionate part thereof at the rate of 1% should be considered as being erroneously allowed as a deduction.

[19] 5. The facts upon which taxpayer relies as a basis for this proceeding are as follows:

(a-1) Petitioner is the owner in joint 50% interest with Mary Young Moore of certain real and personal property, among which is that real property situated in the City of Los Angeles and located at the Southeast corner of Seventh and Figueroa Streets, extending East on Seventh Street to the Southwest corner of Flower and Seventh Streets.

(a-2) In 1917 and 1918 petitioner and Mary Young Moore, co-owners, erected on this real property several brick store buildings which cost of erection of the buildings amounted to \$50,000.00.

(a-3) These buildings were rented or were for rent throughout the period from completion until 1924.

(a-4) In the latter part of the year 1924, petitioner voluntarily caused to be demolished and de-

stroyed all of these several store buildings erected in 1917 and 1918 at a cost of \$50,000.00.

(a-5) The depreciation sustained on the demolished buildings from date of erection until demolition in 1924 at the rate of 3% per annum amounts to \$7,785.00.

(a-6) The net depreciated cost to petitioner and Mary Young Moore, each having a 50% interest of the demolished buildings, as at date of demolition in 1924, amounts to \$42,215.00.

(a-7) Petitioner nor her co-owner never received any insurance money or salvage value on account of the demolition of the buildings.

(a-8) Petitioner claimed as a deduction on her original income tax return for 1924 the amount of \$21,107.50 as her one-half of a loss sustained on the demolition of the buildings.

(a-9) The Commissioner disallowed this amount of \$21,107.50, and added the same back to net income, and the deficiency determined for 1924 is due in part to the disallowance of this deduction.

(b-1) Petitioner and Mary Young Moore on October 1, 1924, ground-leased to the Sun Realty Company, for a period of ninety-nine (99) years, the real property situated at the Southeast corner of Seventh and Figueroa Streets extending East on Seventh Street to Flower Street, as mentioned in statement 5(a-1) above.

(b-2) This lease was obtained for petitioner by an agent, which agent charged petitioner and Mary Young Moore [20] a total commission of \$50,500.00 for obtaining this lease.

(b-3) Of this \$50,500.00 commission for obtaining the lease, \$21,500.00 was paid in 1924, and \$29,000.00 was paid in 1925.

(b-4) Petitioner paid to the agent her one-half of this commission in cash, as follows:

In Year 1924.....\$10,750.00

In Year 1925.....14,500.00

(b-5) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A the amount of \$10,750.00 as an ordinary and necessary expense in conducting her rental business.

(b-6) The Commissioner of Internal Revenue disallowed this deduction of \$10,750.00, and the deficiency determined for 1924 is in part due to the disallowance of this deduction.

(b-7) Petitioner kept her books and rendered her income tax return for the year 1924 on the cash receipts and disbursements basis.

(c-1) Petitioner expended in cash during the year 1924 the amount of \$2,750.00, being one-half of a total of \$5,500.00, as attorneys' fees paid in connection with the preparation of the lease mentioned in 5(b-1) above.

(c-2) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A this amount of \$2,750.00 as an ordinary and necessary expense in conducting her rental business.

(c-3) The Commissioner of Internal Revenue disallowed this deduction of \$2,750.00, and the deficiency determined for 1924 is in part due to the disallowance of this deduction.

(d-1) Petitioner expended in cash during the

year 1924 the amount of \$2,251.43 (being her one-half of \$4,502.85) for obtaining a certificate of title, which was required by the lessee of the lease mentioned in 5(b-1) above.

(d-2) Petitioner claimed as a deduction on her original tax return for 1924 in Schedule A thereof this amount of \$2,251.43 as an ordinary and necessary expense in conducting her rental business.

(d-3) The Commissioner of Internal Revenue disallowed this deduction of \$2,251.43, and the deficiency determined for 1924 is in part due to the disallowance of this deduction.

[21] (e-1) The Commissioner of Internal Revenue capitalized the deductions and losses referred to in 4(a), (b), (c), (d), and (f), and has allowed a deduction of 1% thereof for the year 1924 as amortization of the cost of the lease.

(f-1) Petitioner expended in cash during the year 1925 the amount of \$14,500.00 (being her one-half of \$29,000.00) as balance of commission due the agent for obtaining the lease referred to in 5(b-1) to 5(b-4) inclusive, above.

(f-2) Petitioner claimed as a deduction on her original income tax return for the year 1925 in Schedule A thereof this amount of \$14,500.00 as an ordinary and necessary expense in conducting her rental business.

(f-3) The Commissioner of Internal Revenue disallowed this deduction of \$14,500.00, and the deficiency determined for the year 1925 is in part due to the disallowance of this deduction.

(f-4) Petitioner kept her books and rendered

her income tax return for the year 1925 on the cash receipts and disbursements basis.

(g-1) The Commissioner of Internal Revenue allowed as a deduction for 1925 as amortization of cost of a lease 1% of the amounts of the deductions and loss sustained, per 4(a), (b), (c), (d), and (f) above.

WHEREFORE, the petitioner prays that this Board may hear the proceeding and

(a) Allow as a deduction in computing net income the loss sustained in the year 1924 in the amount of \$21,107.50 on account of demolition of buildings.

(b) Allow as a deduction in computing net income for the year 1924 the amount of \$10,750.00, being commission paid in that year.

(c) Allow as a deduction in computing net income for the year 1924 the amount of \$2,750.00, being attorneys' fees paid in that year.

(d) Allow as a deduction in computing net income for the year 1924 the amount of \$2,251.43, being title costs paid in that year.

(e) Allow the restoration to net income for the year 1924 of the amount of \$513.59, amortization of cost of lease, said restoration to be made only upon allowance of (a), (b), (c), (d), and (f).

[22] (f) Allow as a deduction in computing the net income for the year 1925 the amount of \$14,500.00, being commissions paid in that year.

(g) Allow the restoration to net income for 1925 the amount of \$513.59, amortization of cost

of lease, said restoration to be made only upon allowance of (a), (b), (c), (d), and (f).

And such other relief as the premises may justify.

THEODORE B. BENSON,
917 Southern Building, Washington, D. C.
Counsel for Petitioner.

[23] State of California,
County of Los Angeles,—ss.

Mary C. Young, hereby duly sworn, says that she is the petitioner above named, that she has read the foregoing petition, or had the same read to her, and is familiar with the statements contained therein, and that the facts stated are true, except as to those facts stated to be upon information and belief, and those facts she believes to be true,

MARY C. YOUNG.

MARY C. YOUNG.

Subscribed and sworn to before me this, 11th day of July, 1928.

[Seal]

MARY S. ALEXANDER,
Notary Public.

[24] EXHIBIT "A."

TREASURY DEPARTMENT.

Washington.

May 16, 1928.

(Seal)

Office of

Commissioner of Internal Revenue.

Address Reply to

Commissioner of Internal Revenue.

And Refer to

Mrs. Mary C. Young,

1001 South Hoover Street,

Los Angeles, California.

Madam:

In accordance with Section 274 of the Revenue Act of 1926 you are advised that the determination of your tax liability for the years 1924, 1925 and 1926 discloses a deficiency of \$4,916.84, as shown in the attached statement.

The section of the law above mentioned allows you an appeal to the United States Board of Tax Appeals within sixty days from the date of the mailing of this letter. However, if you acquiesce in this determination, you are requested to execute the inclosed Form A and forward it to the Commissioner

of Internal Revenue, Washington, D. C., for the attention of IT:C:P-7.

Respectfully,
D. H. BLAIR,
Commissioner.
By C. B. ALLEN,
Deputy Commissioner.

Inclosures:

- Statement.
- Form A.
- Form 882.

[25] STATEMENT.

IT:AR:B-8. May 16, 1928.
LMM-60D.

In re: Mrs. Mary C. Young,
1001 South Hoover Street,
Los Angeles, California.

Year.	Deficiency.
1924	\$2,825.63
1925	2,091.21
1926	None
Total	<hr/> \$4,916.84

The report of the Internal Revenue Agent in Charge, San Francisco, California, covering your income tax liability for the years 1924, 1925 and 1926 has been reviewed and approved by this office.

1924.

Net income reported.....\$ 2,783.35

Add:

1. Loss disallowed on account of
demolition of building and ex-
penses with securing 99-year
lease \$36,345.31

Total \$39,128.66

Deduct:

2. Additional deprecia-
tion on furniture
and fixtures\$ 90.00
3. Contributions 5,438.30 5,528.30

Adjusted net income.....\$33,600.36

Income subject to tax.....\$33,600.36

Less:

Dividends\$ 594.62
 Liberty bond interest. 1,912.50
 Personal exemption... 1,000.00 3,507.12

Income subject to normal tax..... 30,093.24

Normal tax at 2% on \$4,000.00.....\$ 80.00

Normal tax at 4% on \$4,000.00..... 160.00

Normal tax at 6% on \$22,093.24..... 1,325.59

Surtax on \$33,600.36..... 1,280.04

Total tax \$2,845.63

[26] Mrs. Mary C. Young.	Statement.
Brought forward.....	\$2,845.63
Earned income credit.....	20.00
	\$2,825.63
Tax previously assessed.....	None
	\$2,825.63

Explanation of Changes.

1. Since the lease acquired had a definite life of 99 years the cost of the buildings less sustained depreciation and the costs of securing the lease have been amortized over the life of the lease.

The total commission paid for securing the lease of lot was \$50,500.00, the amount of \$21,500.00 being paid in 1924 and \$29,000.00 in 1925.

The following items have been disallowed and spread over the life of the lease:

Depreciated cost of old buildings.....	\$42,215.00
Real estate commissions for securing lease	50,500.00
Attorney's fees in connection with lease..	5,500.00
Title costs	4,502.85
	\$102,717.85

One per cent of \$102,717.85 or \$1,027.18 is deductible each year during the life of the lease. One-half of \$1,027.18 or \$513.59 is your share.

Gross income from business.....	\$124,083.69
Salaries	\$ 2,220.00
Taxes	38,537.53
Office rent.....	1,560.00

Repairs	790.15	
Office supplies and expenses	495.75	
Water bills	439.60	
Commissions	357.75	
Insurance	1,955.80	
Depreciation hotel building..	2,320.00	
Furniture and fixtures.....	300.00	
Amortization deductible each year over life of lease	\$ 1,027.18	50,003.76
<hr/>		
Net income from business.....	\$74,079.93	
[27] Mrs. Mary C. Young.		Statement.
One-half to each owner.....	\$37,039.97	
Net income from business reported.....	784.66	
<hr/>		
Additions to income.....	\$36,255.31	
Included in the amount of \$36,255.31 is additional depreciation of \$90.00 and shown separately by the agent.....		90.00
<hr/>		
Additions shown by the agent.....	\$36,345.31	
Deductions:		
2. Depreciation on office furniture increased from 4% to 10%.		
Office furniture and fixtures.....	\$ 3,000.00	
10% allowed	\$ 300.00	
Previously allowed.....	120.00	
<hr/>		
Additional allowable.....	\$ 180.00	
Your share, one-half.....	\$ 90.00	

3. Additional contributions allowed on account of 15% limitation of net income.

1925.

Net income reported on return.....\$38,446.03

Add:

1. Real estate commission..... 14,500.00

Total\$52,946.03

Deduct:

2. Depreciation\$ 90.00

3. Adjustment amortization of building and securing lease 513.59

4. Contributions 1,352.91 1,956.50

Adjusted net income.....\$50,989.53

Income subject to tax.....\$50,989.53

Less:

Dividends\$ 289.36

Interest on Liberty Bonds.. 1,912.50

Personal Exemption..... 1,500.00 3,701.86

Income subject to normal tax.....\$47,287.67

[28] Mrs. Mary C. Young. Statement.

Normal tax at 1½% on \$ 4,000.00.....\$ 60.00

Normal tax at 3 % on \$ 4,000.00..... 120.00

Normal tax at 5 % on \$39,287.67..... 1,964.38

Surtax on \$50,989.53..... 3,108.64

Total\$5,253.02

Earned income credit.....	13.13
<hr/>	
Balance	\$5,239.89
Tax previously assessed.....	3,148.68
<hr/>	
Deficiency in tax.....	\$2,091.21

Explanation of Changes.

1. Real estate commission of \$29,000.00 paid in 1925 in connection with securing lease in 1924 has been disallowed and added to other costs of securing lease, to be amortized over the life of the lease. See 1924 adjustment of lease. One-half of \$29,000.00 or \$14,500.00 is your share.

2. One per cent of \$102,717.85 (total of items disallowed and spread over the life of the lease) or \$1,027.18. One-half or \$513.59 is your share.

3. Adjustment of contributions on account of 15% limitation of net income.

1926.

No Tax.

If the above explanations are satisfactory, it is suggested that you execute and return to this office the enclosed agreement waiving the right to appeal and consenting to immediate assessment in order that your case may be closed without delay.

Payment of the deficiency in tax should not be made until a bill is received from the Collector of Internal Revenue for your district, and remittance should then be made to him.

Now, Feb. 24, 1931, the foregoing Petition certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[29] Filed Sep. 13, 1928. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ANSWER.

The Commissioner of Internal Revenue, by his attorney, C. M. Charest, General Counsel, Bureau of Internal Revenue, for answer to the petition filed in the above-entitled appeal, admits and denies as follows:

1. Admits the allegations contained in paragraph 1.
2. Admits the allegations contained in paragraph 2.
3. Admits the allegations contained in paragraph 3.
4. Denies the respondent erred in the manner

alleged and set forth in paragraphs 4(a); 4(b); 4(c); 4(d); 4(e); 4(f); and 4(g).

5(a-1) Admits the allegations contained in paragraph 5(a-1).

5(a-2) Admits the allegations contained in paragraph 5(a-2).

5(a-3) Denies the allegations contained in paragraph 5(a-3).

5(a-4) Admits the allegations contained in paragraph 5(a-4).

5(a-5) Admits the allegations contained in paragraph 5(a-5).

5(a-6) Admits the allegations contained in paragraph 5(a-6).

5(a-7) Admits the allegations contained in paragraph 5(a-7).

5(a-8) Admits the allegations contained in paragraph 5(a-8).

5(a-9) Admits the allegations contained in paragraph 5(a-9).

5(b-1) Admits the allegations contained in paragraph 5(b-1).

5(b-2) Admits the allegations contained in paragraph 5(b-2).

[30] 5(b-3) Admits the allegations contained in paragraph 5(b-2).

5(b-4) Admits the allegations contained in paragraph 5(b-4).

5(b-5) Admits the allegations contained in paragraph 5(b-5).

5(b-6) Admits the allegations contained in paragraph 5(b-6).

5(b-7) Admits the allegations contained in paragraph 5(b-7).

5(c-1) Admits the allegations contained in paragraph 5(c-1).

5(c-2) Admits the allegations contained in paragraph 5(c-2).

5(c-3) Admits the allegations contained in paragraph 5(c-3).

5(d-1) Admits the allegations contained in paragraph 5(d-1).

5(d-2) Admits the allegations contained in paragraph 5(d-2).

5(d-3) Admits the allegations contained in paragraph 5(d-3).

5(e-1) Admits the allegations contained in paragraph 5(e-1).

5(f-1) Admits the allegations contained in paragraph 5(f-1).

5(f-2) Admits the allegations contained in paragraph 5(f-2).

5(f-3) Admits the allegations contained in paragraph 5(f-3).

5(f-4) Admits the allegations contained in paragraph 5(f-4).

5(g-1) Admits the allegations contained in paragraph 5(g-1).

6. Denies generally and specifically each and every allegation contained in taxpayer's petition, not hereinbefore admitted, qualified or denied.

WHEREFORE, it is prayed that the taxpayer's appeal be denied.

(Signed) C. M. CHAREST.

C. M. CHAREST,

General Counsel, Bureau of Internal Revenue.

Of Counsel:

W. FRANK GIBBS,

Special Atty.,

Bureau of Internal Revenue.

Now, Feb. 24, 1931, the foregoing Answer certified from the record as a true copy.

[Seal]

B. D. GAMBLE,

Clerk, U. S. Board of Tax Appeals.

[31] Filed at Hearing Feb. 24, 1930. U. S. Board of Tax Appeals.

The United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG, 1001 South Hoover Street, Los Angeles, California,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DOCKET No. 39,824.

MARY YOUNG MOORE, 1001 South Hoover
Street, Los Angeles, California,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

MOTION TO CONSOLIDATE CAUSES FOR
HEARING.

Come now the petitioners in the above-entitled causes, by their attorney, and move the Board to enter an order consolidating the two causes and setting them for hearing at the same time and on the basis of the same evidence, and as grounds therefor set forth the following:

Granted Feb. 24, 1930.

A. MATTHEWS,
G.

Member U. S. Board of Tax Appeals.

[32] 1. Mary C. Young is a widow and Mary Young Moore is her daughter and they are joint owners of certain real estate in connection with which expenditures, involved in these proceedings, were made.

2. The same facts are involved in both proceedings.

3. This motion has been discussed with counsel for respondent and it is understood will not be opposed.

WHEREFORE, the petitioners pray that the two causes be consolidated and heard at the same time and on the basis of the same evidence.

THEODORE B. BENSON,
917 Southern Building,
Washington, D. C.,
Attorney for Petitioners.

Now, Feb. 24, 1931, the foregoing Motion to Consolidate and Order Granting same certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[33] Filed at Hearing Feb. 24, 1930. U. S. Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG, 1001 South Hoover St., Los Angeles, California,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DOCKET No. 39,824.

MARY YOUNG MOORE, 1001 South Hoover Street, Los Angeles, California,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

STIPULATION OF FACTS.

Counsel for petitioners and counsel for respondent hereby stipulate and agree to the following facts in this proceeding:

1. The petitioner, Mary C. Young, is a widow and resides at 1001 South Hoover Street, Los Angeles, California.

2. Under date of May 16, 1928, the respondent mailed a notice of deficiency to the said Mary C. Young and asserted deficiencies in the amounts of \$2,825.63 and \$2,091.21, for the years 1924 and 1925 respectively. The said Mary C. Young, within the time prescribed by law, duly filed her petition to this Board.

3. The petitioner, Mary Young Moore, is the daughter of the said Mary C. Young, and also resides at 1001 South Hoover Street, Los Angeles, California.

[34] 4. Under date of May 16, 1928, the respondent mailed a notice of deficiency to the said Mary Young Moore and asserted deficiencies in the amounts of \$2,930.06 and \$2,117.42, for the years 1924 and 1925 respectively. The said Mary Young Moore, within the time prescribed by law, duly filed her petition to this Board.

5. The petitioners, the said Mary C. Young and the said Mary Young Moore, are joint owners of certain lands in the City of Los Angeles, California, and located at the Southeast corner of Seventh and Figueroa Streets, extending East on Seventh Street

to the Southwest corner of Flower and Seventh Streets. The petitioners are equal owners.

6. During the years 1917 and 1918 the petitioners erected on the said land several brick store buildings at a cost of \$50,000.00.

7. The said brick store buildings were rented or were for rent throughout the period from the date or dates of completion until that of demolition during the year 1924 as hereinafter mentioned.

8. In 1924 a lease for the term of ninety-nine years was entered into with the Sun Realty Company, whereby the brick buildings erected during 1917 and 1918 should be demolished and a new building to be occupied by Barker Brothers should be erected and pursuant thereto the said buildings were demolished in 1924.

[35] 9. The depreciation sustained on the said brick store buildings from the time of erection to the time of demolition in 1924 should be determined at the rate of 3% per annum and it is stipulated and agreed that the full amount thereof is \$7,785.00.

10. It is further stipulated and agreed that the net depreciated cost of the said brick store buildings to the petitioner at the time demolished in 1924 is \$42,215.00.

11. The petitioner received no insurance or other compensation on the demolition of the buildings. The buildings were not salvaged or otherwise disposed of and the petitioner received no compensation whatever from the demolition of the said buildings.

12. Each of the petitioners in her income tax

return for the calendar year 1924 claimed a deduction in the amount of \$21,107.50, representing her one-half of the undepreciated lost.

13. The respondent audited the income tax return of each of the petitioners and disallowed the said deduction claimed by each in the amount of \$21,107.50 and added the same back to income and the said sum is included in and constitutes a part of the total addition to the income of each of the petitioners in the amount of \$36,345.31, as appears on page 1, of the statement attached to the notice of deficiency.

14. The petitioners on October 1, 1924, granted a ground-lease of the said premises at Seventh and Figueroa Streets to the Sun Realty Company for the period of ninety-nine years, and on the basis of a monthly rental of \$10,000.00 from October 1, 1924 to June 30, 1926 and of the monthly [36] rental of \$20,000.00 thereafter and until the end of the term of the lease.

15. The lease to the said premises was obtained for the petitioners by a real estate agent who charged as his commission therefor the sum of \$50,500.00.

16. The commission charged by the said real estate agent was paid during the years 1924 and 1925. During the year 1924 there was paid \$21,500.00, and during the year 1925, \$29,000.00. The said amounts were paid by the petitioners in equal sums and each paid \$10,750.00 during the year 1924 and \$14,500.00 during the year 1925.

17. Each of the petitioners claimed as a deduction in her income tax return for the year 1924, the

amount actually paid by her during such year in the said sum of \$10,750.00.

18. The respondent in his audit of the return of each of the petitioners disallowed the said deduction in the amount of \$10,750.00, which is included in and constitutes part of the said sum of \$36,345.31 above mentioned.

19. In addition to the commission paid the real estate agent the petitioners were required to pay attorneys' fees in the amount of \$5,500.00 and expense of obtaining certificate of title in the amount of \$4,502.85.

20. In the income tax returns filed by the said petitioner each claimed a deduction in the amount of \$2,750.00, being one-half of the said attorneys' fees and \$2,251.43 being one-half of the cost of obtaining the said certificate of title.

[37] 21. The respondent in his audit of the return of each of the petitioners disallowed the full amount of said deductions in the amounts of \$2,750.00 and \$2,251.43, and the said sums are included in and constitute a part of the said sum of \$36,345.31.

22. The respondent considered the said losses sustained on the demolition of the said brick buildings to be a capital loss and further considered the said sums expended by the petitioners as commissions, attorneys' fees, and cost of obtaining certificate of title to be capital expenditures to be amortized and deducted over the term of the lease, and as a result thereof allowed a deduction to each of the petitioners for the year 1924 in the amount of \$513.59.

23. In the income tax returns filed by the petitioner for the year 1925 each claimed a deduction in the amount of \$14,500.00, being the amount paid by each as commission to the real estate agent as above mentioned.

24. The respondent disallowed the said deduction to each of the petitioners as appears at page 3 of the statement attached to the notices of deficiency.

25. In his adjustment of the income of each of the petitioners for the year 1925 the respondent allowed a deduction for amortization of the cost of the lease in the said amount of \$513.59.

26. Each of the petitioners kept her books and rendered her income [38] tax returns for the years 1924 and 1925 on the basis of cash receipts and disbursements.

(Signed) THEODORE B. BENSON,
Counsel for Petitioners.

(Signed) C. M. CHAREST,
Counsel for the Respondent.

Now, Feb. 24, 1931, the foregoing Stipulation of Facts certified from the record as a true copy.

[Seal] B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[39] A true copy.

[Seal] Teste: B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

20 B. T. A. —.

United States Board of Tax Appeals.

DOCKET Nos. 39,825, 39,824.

Promulgated September 8, 1930.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

1. Where a 99 year lease is made with the purpose of erecting a new building the unextinguished cost of the old buildings is not deductible by lessor as a loss in the year of their demolition but should be exhausted over the term of the lease.

2. A commission and fees paid by the petitioners to procure a 99 year lease *held* not to constitute deductible expenses in the years in which paid but capital expenditures to be ratably deducted over the term of the lease.

THEODORE B. BENSON, Esq., for the Petitioners.

W. FRANK GIBBS, Esq., for the Respondent.

These proceedings, which were consolidated for hearing and decision, are for the redetermination of deficiencies in income taxes asserted by the respondent against Mary C. Young of \$2,825.63 for [40] 1924 and \$2,091.21 for 1925, and against Mary Young Moore of \$2,930.06 for 1924 and \$2,117.42 for 1925. The facts were stipulated, from which we make the following:

FINDINGS OF FACT.

Mary Young Moore is the daughter of Mary C. Young. They both reside at 1001 South Hoover Street, Los Angeles, California. They are joint owners of certain land in the City of Los Angeles, California, and located at the Southeast corner of Seventh and Figueroa Streets, extending East on Seventh Street to the Southwest corner of Flower and Seventh Streets. The petitioners are equal owners.

During the years 1917 and 1918 the petitioners erected on this land several brick store buildings at a cost of \$50,000. These buildings were rented or for rent until their demolition.

In 1924 a lease for the term of ninety-nine years was entered into by the petitioners with the Sun Realty Company, whereby the brick buildings erected during 1917 and 1918 should be demolished and a new building erected to be occupied by Bar-

ker Brothers. The buildings were demolished in 1924.

The full amount of the depreciation sustained on the brick store buildings, from the time of erection to the time of demolition in 1924, was \$7,785, and the undepreciated cost thereof to the petitioners at the time of demolition was \$42,215.

The buildings were not salvaged or otherwise disposed of, and [41] the petitioners received no insurance or other compensation on the demolition of the buildings.

Each of the petitioners, in her income tax return for the year 1924, claimed a deduction in the amount of \$21,107.50, representing her one-half of the undepreciated cost. These deductions were disallowed by the respondent and the sum of \$21,107.50 was added back to the income of each of the petitioners.

On October 1, 1924, the petitioners granted a ground lease of the premises at Seventh and Figueroa Streets to the Sun Realty Company for a period of ninety-nine years, on the basis of a monthly rental of \$10,000 from October 1, 1924, to June 30, 1926, and of a monthly rental of \$20,000 thereafter until the end of the term of the lease. This lease was obtained for the petitioners by a real estate agent who charged as his commission therefor the sum of \$50,500, which commission was paid during the years 1924 and 1925. During the year 1924 there was paid \$21,500, and the sum of \$29,000 was paid during the year 1925. These amounts were paid by the petitioners

in equal sums and each paid \$10,750 in 1924 and \$14,500 in 1925.

Each of the petitioners claimed as a deduction in her income tax return for 1924 the sum of \$10,750, representing the amount actually paid by her to the real estate agent during that year. These deductions were disallowed by the Commissioner.

In addition to the commission paid to the real estate agent, [42] the petitioners were required to pay attorneys' fees in the amount of \$5,500, and the expense of obtaining certificate of title in the amount of \$4,502.85.

Each petitioner, in her income tax return for 1924, claimed a deduction in the amount of \$2,750, being one-half of the attorneys' fees, and a deduction in the amount of \$2,251.43, being one-half of the cost of obtaining certificate of title. These deductions were disallowed by the respondent.

The respondent considered the loss sustained on the demolition of the brick buildings to be a capital loss and further considered the sums expended by the petitioners as commissions, attorneys' fees and cost of obtaining certificate of title, to be capital expenditures to be amortized and deducted over the term of the lease, and as a result thereof allowed a deduction to each of the petitioners for the year 1924 in the amount of \$513.59.

In his adjustment of the income of the petitioners for the year 1925, the respondent disallowed the deduction claimed by each in the amount of \$14,500, representing the sum paid by each as commission to the real estate agent in 1925, and allowed a deduc-

tion for amortization of the cost of the lease in the amount of \$513.59.

Each of the petitioners kept her books and rendered her income tax returns for the years 1924 and 1925 on the basis of cash receipts and disbursements.

[43] OPINION.

MATTHEWS.—The petitioners assert that the respondent erred in two particulars. First, in refusing to allow as a deduction in 1924 the unextinguished cost of the brick store buildings which were demolished in order that a new building might be erected on the premises. Second, in refusing to allow as deductions in 1924 and 1925 the amounts paid by the petitioners in those years in connection with the negotiation of a 99 year lease on the property owned by petitioners, such amounts representing the commission paid to a real estate agent, attorneys' fees, and the expense of obtaining a certificate of title.

The first issue is governed by our decision in *Charles N. Manning*, 7 B. T. A. 286, in which we held that the unextinguished cost of buildings removed in order to obtain a 99 year lease upon the land represented the cost to the lessor of such lease and should be exhausted over the term of the lease. This decision was followed in *William Ward*, 7 B. T. A. 1107, in which case the same question was presented. See, also, *Liberty Baking Company vs. Heiner*, 37 Fed. (2) 703; *Anahma Realty Corporation vs. Commissioner*, decided on May 5, 1930, by the Circuit Court of Appeals for the Second Cir-

cuit, — Fed. (2d) —, affirming our decision in this case, 16 B. T. A. 749.

With respect to the second issue, the petitioners take the [44] position that the amounts paid in connection with the procuring of the 99 year lease do not constitute capital expenditures but represent necessary expenses and that, since they were on a cash receipts and disbursements basis, they are entitled to deduct from income the amounts paid in cash in 1924 and 1925. The respondent contends that the expenditures in question resulted in the acquisition of a capital asset and that any deduction allowable is by way of amortization over the life of the lease.

In *Bonwit-Teller & Company*, 17 B. T. A. 1019, and *Julia Stow Lovejoy*, 18 B. T. A. 1179, this question was considered at length. These decisions were cited and followed in *James M. Butler*, 19 B. T. A. 718, in which it was held that the commission paid by a lessor to procure a long term lease does not constitute a deductible expense in the year paid, but is a capital expenditure to be ratably deducted as the lease is exhausted. See, also, *Evalena M. Howard*, 19 B. T. A. 865, and *Central Bank Block Association*, 19 B. T. A. 1183. On authority of these decisions, the respondent's action in prorating the expenditures over the term of the lease is approved.

Judgment will be entered for the respondent.

Now, Feb. 24, 1931, the foregoing Findings of Fact and Opinion certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[45] United States Board of Tax Appeals,
Washington.

DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION.

Pursuant to the Board's findings of fact and opinion, promulgated September 8, 1930, it is ORDERED AND DECIDED: That there are deficiencies of \$2,930.06 and \$2,117.42 for the years 1924 and 1925, respectively.

ANNABEL MATTHEWS,
MR.

Member, United States Board of Tax Appeals.

Entered Sep. 10, 1930.

A true copy.

[Seal]

Teste: B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

Now, Feb. 24, 1931, the foregoing Decision certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[46] United States Board of Tax Appeals,
Washington.

DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION.

Pursuant to the Board's findings of fact and opinion, promulgated September 8, 1930, it is ORDERED AND DECIDED: That there are deficiencies of \$2,825.63 and \$2,091.21 for the years 1924 and 1925, respectively.

ANNABEL MATTHEWS,
MR.

Member, United States Board of Tax Appeals.

Entered Sep. 10, 1930.

A true copy.

[Seal]

Teste: B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

Now, Feb. 24, 1931, the foregoing Decision certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[47] Filed Jan. 13, 1931. United States Board of Tax Appeals.

In the United States Circuit Court of Appeals for the Ninth Circuit.

DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

and

DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR THE REVIEW OF THE
DECISION OF THE UNITED STATES
BOARD OF TAX APPEALS.

To the Honorable the Judges of the United States
Circuit Court of Appeals for the Ninth
Circuit:

Mary C. Young, and Mary Young Moore, in support of this their separate and joint petition, filed in pursuance of the provisions of Section 1001 of the Act of Congress of February 26, 1926, entitled the Revenue Act of 1926, for the review of the decision of the United States Board of Tax Appeals rendered on September 8, 1930, and from the final orders of the said Court entered on September 10, 1930, approving a deficiency in income and profits taxes of the Petitioner Mary C. Young for the calendar year 1924 in the sum of Two Thousand Eight Hundred Twenty-five Dollars and Sixty-three Cents (\$2,825.63) and for the calendar year 1925 in the sum of Two [48] Thousand Ninety-one Dollars and Twenty-one Cents (\$2,091.21), and of the Petitioner, Mary Young Moore, for the calendar year 1924 in the sum of Two Thousand Nine Hundred Thirty Dollars and Six Cents (\$2,930.06) and for the calendar year 1925 in the sum of Two Thousand One Hundred Seventeen Dollars and Forty-two Cents (\$2,117.42), respectively, show to this Honorable Court as follows:

I.

STATEMENT OF THE NATURE OF THE
CONTROVERSY.

On July 16, 1928, the Petitioners filed with the United States Board of Tax Appeals, in pursuance of the Revenue Act of 1926, their separate petitions requesting the re-determination of deficiencies and income and excess profits taxes for the calendar years 1924 and 1925, as shown by the final notices

of deficiency previously mailed by the Respondent to the Petitioners under date of May 16, 1928. Said notices of deficiency asserted in the case of Mary C. Young a deficiency of Two Thousand Eight Hundred Twenty-five Dollars and Sixty-three Cents (\$2,825.63) for the year 1924 and Two Thousand Ninety-one Dollars and Twenty-one Cents (\$2,091.21) for the year 1925, and in the case of Mary Young Moore a deficiency of Two Thousand Nine Hundred Thirty Dollars and Six Cents (\$2,930.06) for 1924 and Two Thousand One Hundred Seventeen Dollars and Forty-two Cents (\$2,117.42) for 1925. The issues to be determined by the United States Board of Tax Appeals were identical in both cases. By an order of the United States Board of Tax Appeals the proceedings in both appeals were consolidated for hearing and decision. A stipulation of facts was entered into by the Petitioners and the Respondent and said stipulation was filed with the United States Board of Tax Appeals. Said appeals so consolidated duly came on for hearing on February 24, 1930. No evidence was introduced other than that contained in the [49] stipulation of facts filed. On September 8, 1930, the United States Board of Tax Appeals promulgated its findings of fact, which findings of fact are in substantial accord with the stipulation of facts filed and with the allegations contained in the Petitions filed with the United States Board of Tax Appeals and with the Answers thereto filed by the Respondent. Said findings of fact are as follows:

FINDINGS OF FACT.

“Mary Young Moore is the daughter of Mary C. Young. They both reside at 1001 South Hoover Street, Los Angeles, California. They are joint owners of certain land in the City of Los Angeles, California, and located at the southeast corner of Seventh and Figueroa Streets, extending East on Seventh Street to the southwest corner of Flower and Seventh Streets. The petitioners are equal owners.

“During the years 1917 and 1918 the petitioners erected on this land several brick store buildings at a cost of \$50,000. These buildings were rented or for rent until their demolition.

“In 1924 a lease for the term of ninety-nine years was entered into by the petitioners with the Sun Realty Company, whereby the brick buildings erected during 1917 and 1918 should be demolished and a new building erected to be occupied by Barker Brothers. The buildings were demolished in 1924.

“The full amount of the depreciation sustained on the brick store buildings, and from the time of erection to the time of demolition in 1924, was \$7,785, and the undepreciated cost thereof to the petitioners at the time of demolition was \$42,215.

“The buildings were not salvaged or otherwise disposed of, and the petitioners received no insurance or other compensation on the demolition of the buildings.

[50] “Each of the petitioners, in her income tax return for the year 1924, claimed a deduction

in the amount of \$21,107.50, representing her one-half of the undepreciated cost. These deductions were disallowed by the respondent and the sum of \$21,107.50 was added back to the income of each of the petitioners.

“On October 1, 1924, the petitioners granted a ground lease of the premises at Seventh and Figueroa Streets to the Sun Realty Company for the period of ninety-nine years, on the basis of a monthly rental of \$10,000 from October 1, 1924, to June 30, 1926, and of a monthly rental of \$20,000 thereafter until the end of the term of the lease. This lease was obtained for the petitioners by a real estate agent who charged as his commission therefore the sum of \$50,500, which commission was paid during the years 1924 and 1925. During the year 1924 there was paid \$21,500, and the sum of \$29,000 was paid during the year 1925. These amounts were paid by the petitioners in equal sums and each paid \$10,750 in 1924 and \$14,500 in 1925.

“Each of the petitioners claimed as a deduction in her income tax return for 1924 the sum of \$10,750, representing the amount actually paid by her to the real estate agent during that year. These deductions were disallowed by the Commissioner.

“In addition to the commission paid to the real estate agent, the petitioners were required to pay attorneys' fees in the amount of \$5,500, and the expense of obtaining certificate of title in the amount of \$4,502.85.

“Each petitioner, in her income tax return for 1924, claimed a deduction in the amount of \$2,750, being one-half of the attorneys’ fees, and a deduction in the amount of \$2,251.43, being one-half of the cost of obtaining certificate of title. These deductions were disallowed by the respondent.

[51] “The respondent considered the loss sustained on the demolition of the brick buildings to be a capital loss and further considered the sums expended by the petitioners as commissions, attorneys’ fees and cost of obtaining certificate of title, to be capital expenditures to be amortized and deducted over the term of the lease, and as a result thereof allowed a deduction to each of the petitioners for the year 1924 in the amount of \$513.59.

“In his adjustment of the income of the petitioners for the year 1925, the respondent disallowed the deduction claimed by each in the amount of \$14,500, representing the sum paid by each as commission to the real estate agent in 1925, and allowed a deduction for amortization of the cost of the lease in the amount of \$513.59.

“Each of the petitioners kept her books and rendered her income tax returns for the years 1924 and 1925 on the basis of cash receipts and disbursements.”

On September 8, 1930, the United States Board of Tax Appeals promulgated its opinion in said causes in which it held as a matter of law that the petitioners were not entitled to deduct from their gross income for the year 1924 the undepreciated cost of the buildings demolished in that year. Said

opinion further held as a matter of law that the petitioners were not entitled to deduct in the year 1924 the amount paid by them in that year to a real estate agent as his commission for obtaining the ninety-nine year lease on petitioners' property, and said opinion further held as a matter of law that petitioners were not entitled to deduct from their gross income for the year 1925 the balance of said commission actually paid by them to the real estate agent in the year 1925. Said opinion further held that the petitioners were not entitled to deduct [52] from the gross income for the year 1924 the amounts paid by them in that year for attorneys' fees and for a certificate of title, both of which amounts were expended in effecting said ninety-nine year lease. Said board in its opinion held all of said amounts to be capital expenditures to be amortized and deducted over the term of said lease and allowed to each of the petitioners for each of the years 1924 and 1925 a deduction of \$513.59.

On September 10, 1930, the said Board entered its final orders approving the deficiencies as determined by the respondent.

II.

DESIGNATION OF COURT OF REVIEW.

The petitioners being aggrieved by the said opinion, decision and orders, and being individuals who have at all times herein mentioned resided in the City of Los Angeles, California, and who filed their income tax returns for the calendar years

1924 and 1925 with the Collector of Internal Revenue at Los Angeles, California, desire a review of said opinion, decision and orders by the United States Circuit Court of Appeals for the Ninth Circuit.

III.

ASSIGNMENT OF ERRORS.

The petitioners as a basis for review make the following assignments of error:

(1) The Board of Tax Appeals erred in holding that each of the petitioners was not entitled to deduct from her gross income for the year 1924 the amount of Twenty-one Thousand One Hundred and Seven Dollars and Fifty Cents (\$21,107.50) representing one-half of the undepreciated cost of their buildings demolished in that year.

[53] (2) The Board of Tax Appeals erred in holding that each of the petitioners was not entitled to deduct from her gross income for the year 1924 the sum of Ten Thousand Seven Hundred Fifty Dollars (\$10,750.00) actually paid by each of the petitioners in that year as a commission to the real estate agent who obtained said ninety-nine year lease.

(3) The Board of Tax Appeals erred in holding that each of the petitioners was not entitled to deduct from gross income for the year 1925 the sum of Fourteen Thousand Five Hundred Dollars (\$14,500.00) actually paid by each of the petitioners in that year as a commission to the real estate agent who obtained said ninety-nine year lease.

(4) The Board of Tax Appeals erred in holding that each of said petitioners was not entitled to deduct from gross income for the year 1924 the sum of Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) actually paid by each of said petitioners in that year to an attorney for his services in effecting said ninety-nine year lease.

(5) The Board of Tax Appeals erred in holding that each of said petitioners was not entitled to deduct from her gross income for the year 1924 the sum of Two Thousand Two Hundred Fifty-one Dollars and Forty-three Cents (\$2,251.43) actually paid by each of said petitioners in said year for a certificate of title necessary in effecting said ninety-nine year lease.

(6) The findings of fact made by said Board are insufficient to support the decision and order of said Board.

(7) The Board erred in rendering decision for the respondent.

(8) The Board erred in entering its final orders on September 10, 1930, approving the deficiencies determined by the respondent.

[54] WHEREFORE, your petitioners pray that the Honorable Court may review said decision, opinion and orders and reverse and set aside the same, and that the Clerk of the United States Board of Tax Appeals be directed to transmit and deliver to the Clerk of the said Court certified copies of all and every of the documents necessary and material to the presentation and consideration of the foregoing Petition for Review, and as required

by the rules of said Court and statutes made and provided.

MRS. MARY C. YOUNG.

MARY C. YOUNG.

MRS. MARY YOUNG MOORE.

MARY YOUNG MOORE.

M. F. MITCHELL.

M. F. MITCHELL,

Petroleum Securities Building,
Los Angeles, California.

GEORGE G. WITTER.

GEORGE G. WITTER,

Petroleum Securities Building,
Los Angeles, California.

THEODORE B. BENSON,

THEODORE B. BENSON,

Southern Building,
Washington, D. C.,
Attorneys for Petitioners.

[55] State of California,
County of Los Angeles,—ss.

Personally appeared before me, John B. Horbach, a Notary Public in and for the County and State aforesaid, the above-named petitioners, Mary C. Young and Mary Young Moore, and each for herself does depose and say: That she signed the foregoing petition; that she has read the same; and that the facts set forth therein are true to the best of her knowledge and belief; and that said petition is filed in good faith.

JOHN B. HORBACH,

Notary Public, in and for the County of Los Angeles, State of California.

[56] Filed Jan. 13, 1931. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

and

DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF FILING PETITION FOR RE-
VIEW.

To the General Counsel, Bureau of Internal Revenue, Attorney for Respondent:

You are hereby notified that on the 13th day of January, 1931, a petition for Review of the decision of the United States Board of Tax Appeals was filed with the Clerk of the Board in the cases of Mary C. Young, Petitioner, vs. Commissioner of Internal Revenue, Respondent, Docket No. 39,825, and Mary Young Moore, Petitioner, vs. Commissioner of Internal Revenue, Respondent, Docket No.

39,824, and a true copy of said Petition is herewith served upon you.

M. F. MITCHELL.
M. F. MITCHELL,
Petroleum Securities Building,
Los Angeles, California.
GEORGE G. WITTER,
GEORGE G. WITTER,
Petroleum Securities Building,
Los Angeles California.
THEODORE B. BENSON.
THEODORE B. BENSON,
Southern Building,
Washington, D. C.
Attorneys for Petitioners.

[57] Receipt of the above petition acknowledged this 13th day of January, 1931.

C. M. CHAREST,
General Counsel Bureau of Internal Revenue,
Attorney for Respondent.

Now, Feb. 24, 1931, the foregoing Petition for Review and Notice of Filing certified from the record as a true copy.

[Seal] B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[58] Filed Jan. 13, 1931. United States Board of Tax Appeals.

United States Board of Tax Appeals.

DOCKET No. 39,825.

MARY C. YOUNG,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

and

DOCKET No. 39,824.

MARY YOUNG MOORE,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the United States Board of Tax Appeals:

You will please prepare and within sixty (60) days and such additional times as has been granted by the Board from the date of the filing of Petition for Review in the above-stated case, transmit to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit certified copies of the following documents:

1. Documentary entries of proceedings before the United States Board of Tax Appeals in the above-entitled causes.

2. Pleadings before the Board in said causes.
 - (a) Petitions.
 - (b) Answers.
3. Petitioners' Motion to consolidate the above-entitled causes for hearing and decision.
4. Order of the Board of Tax Appeals granting said motion to consolidate.
- [59] 5. Stipulation of facts filed in said causes.
6. Findings of fact, opinion and decision of the Board.
7. Two Board orders of redetermination dated September 10, 1930.
8. Petition for review.
9. Notice of filing petition for review.
10. This praecipe.

The foregoing to be prepared, certified and transmitted as required by law and the rules of the United States Court of Appeals for the Ninth Circuit.

M. F. MITCHELL.

M. F. MITCHELL,

Petroleum Securities Building,
Los Angeles, California.

GEORGE G. WITTER.

GEORGE G. WITTER,

Petroleum Securities Building,
Los Angeles, California.

THEODORE B. BENSON.

THEODORE B. BENSON,

Southern Building, Washington, D. C.

Attorneys for Petitioners.

Service of a copy of the foregoing is hereby acknowledged this 13th day of January, 1931.

C. M. CHAREST,
General Counsel, Bureau of Internal Revenue,
Attorney for Respondent.

No objection.

C. M. CHAREST,
General Counsel for Commissioner of Internal
Revenue.

Now, Feb. 24, 1931, the foregoing praecipe certified from the record as a true copy.

[Seal]

B. D. GAMBLE,
Clerk, U. S. Board of Tax Appeals.

[Endorsed]: No. 6427. United States Circuit Court of Appeals for the Ninth Circuit. Mary C. Young, Petitioner, vs. Commissioner of Internal Revenue, Respondent, and Mary Young Moore, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of Record. Upon Petition to Review an Order of the United States Board of Tax Appeals.

Filed March 30, 1931.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.