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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition
of
BERNARD JUDOWITZ
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) 1967

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

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 8th day of September , 19 72, she served the within Notice of Decision (or Determination) by (certified) mail upon Bernard Judowitz (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Bernard Judowitz
52 Loreto Avenue
Rochester, New York 14623

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

8th day of September , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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BERNARD JUDOWITZ

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(representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Bert D. Butler, Esq.
2255 Hudson Avenue
Rochester, New York 14617

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

8th day of September , 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

September 8, 1972

Bernard Judovitz
52 Loreto Avenue
Rochester, New York 14623

Dear Mr. Judovitz:

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

Please take further notice that pursuant to **section 690**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leiner
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
BERNARD JUDOWITZ : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1967. :

Bernard Judowitz petitioned for a redetermination of deficiency in personal income tax under Article 22 of the Tax Law for the year 1967. A formal hearing was held at the offices of the State Tax Commission, Rochester, New York, on January 20, 1972, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Bert D. Butler and the Income Tax Bureau was represented by Saul Heckelman, Esq., (Alexander Weiss, Esq., of Counsel).

ISSUE

Was a principal owner-employee's loss by bad debt of \$16,690.00 in the year 1967, by guaranteeing loans made to his corporation a business bad debt?

FINDINGS OF FACT

1. Petitioner, Bernard Judowitz, timely filed a New York State income tax return for the year 1967.
2. A Notice of Determination of deficiencies in personal income tax for the year 1967 was issued on March 30, 1970, against the taxpayer under File No. 76959746.
3. The taxpayer petitioned for redetermination of the deficiencies.
4. Mr. Judowitz, a principal owner and employee of a furniture sales corporation, had invested \$1,000.00 in the corporation. The corporation loaned money for its business and he guaranteed debts

of the corporation in the amount of \$16,690.00. His principal motive in guaranteeing the debts of the corporation was to maintain his position as an employee of the corporation. His loss on the loan guarantee occurred in 1967. He has a long history as a furniture salesman. His salary in 1961 was \$11,000.00 and in 1962, it was \$10,900.00, and his salary continued in subsequent years.

CONCLUSIONS OF LAW

A. The dominant motive of the taxpayer for this loan guarantee was to continue his employment by the corporation and consequently, his loss was a business bad debt loss.

U.S. v. Generes, U.S. Supreme Court, February 23, 1972. 1972 CCH Standard Federal Tax Reports - paragraph 9259.


B. The taxpayer's petition is sustained and it is determined that there is no deficiency.

DATED: Albany, New York
September 8, 1972

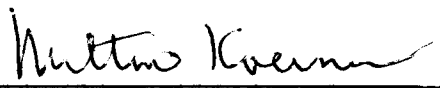
STATE TAX COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER