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STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

WILBUR G. SILVERMAN

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

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

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 23rd day of December , 1974 , she served the within
Notice of Decision ~~(or Determination)~~ by (certified) mail upon Wilbur G. Silverman

~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Wilbur G. Silverman
9400 West Bay Harbor Drive
Bay Harbor Islands, Florida 33154

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)~~
~~of~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the ~~(representative of the)~~ petitioner.

Sworn to before me this

23rd day of December , 1974.

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

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

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

AREA CODE 518

ADDRESS YOUR REPLY TO

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

Dated: Albany, New York

December 23, 1974

Mr. Wilbur G. Silverman
9400 West Bay Harbor Drive
Bay Harbor Islands, Florida 33154

Dear Mr. Silverman:

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

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

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

Very truly yours,

L. Robert Leisner
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
WILBUR G. SILVERMAN : DECISION
for Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1970. :

Petitioner, Wilbur G. Silverman, petitioned for a redetermination of deficiencies in personal income tax under Article 22 of the Tax Law for the year 1970.

The case was submitted for decision on information contained in the file.

ISSUE

Whether petitioner, Wilbur G. Silverman, was entitled to a capital loss deduction for the year 1970.

FINDINGS OF FACT

1. Petitioner, Wilbur G. Silverman, timely filed New York State income tax nonresident returns for the year 1970.

2. A Notice of Determination of deficiencies in personal income tax for the year 1970 was issued on January 28, 1974, against the taxpayer under File No. 0-53251506, disallowing a capital loss deduction hereinafter described.

3. The taxpayer petitioned for redetermination of the deficiencies.

4. The taxpayer, an attorney, was a resident of New York State until December 15, 1968, when he moved to Florida. In November 1961, while he was a resident of New York, he loaned \$43,000.00 to Chardele Clothing Corporation, a New York corporation. The loan was never repaid.

5. In an effort to collect the loan, on January 11, 1967, taxpayer obtained a judgment against Chardele Clothing Corporation for the sum of \$53,713.83 in the Supreme Court of the State of New York, Queens County. On January 11, 1967, said judgment and execution was returned unsatisfied by the Sheriff of the City of New York, Queens County, as a result of the insolvency of Chardele Clothing Corporation. This loss has been carried over from year to year, by the taxpayer, since said date.

CONCLUSIONS OF LAW

A. That the loss in question was incurred while the taxpayer was a resident of the State of New York and was a result of a business transaction consummated within the State of New York. Therefore, the loss from the aforesaid capital transaction was properly reportable to New York State by the nonresident taxpayer. 20 NYCRR 262.6.

B. The taxpayer's petition is sustained. It is determined that there are no deficiencies against petitioner in either income tax or unincorporated business tax for the year 1970.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER