

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOSEPH J. LISS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the Year(s) ~~xxxx~~ Period(s)
1971.

State of New York
County of Albany

Carmen Mottolese, 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 28th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Joseph J.

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

as follows: Mr. Joseph J. Liss
Box 341
Wynantskill, New York 12198

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

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

Sworn to before me this
28th day of September, 1976.

Carmen Mottolese

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 28, 1976

TELEPHONE: (518) 457-3850

Mr. Joseph J. Liss
Box 341
Wynantskill, New York 12198

Dear Mr. Liss:

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

Please take further notice that pursuant to
Section() **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.

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. They
will be referred to the proper party for reply.

Very truly yours,
Frank J. Puccia

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
JOSEPH J. LISS : DECISION
for a Redetermination of a Deficiency :
or for Refund of Personal Income Tax :
under Article 22 of the Tax Law for :
the Year 1971. :

Petitioner, Joseph J. Liss, Box 341, Wynantskill, New York 12198, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for 1971. (File No. 1-84288657). A small claims hearing was held before Harry Huebsch, Hearing Officer, June 16, 1976, at 9:15 A.M., at the offices of the State Tax Commission, Room 107, Building #9, State Campus, Albany, New York. The petitioner appeared pro se. The Income Tax Bureau appeared by Peter J. Crotty, Esq., (Solomon Sies, Esq., of counsel).

ISSUE

Whether or not travel expense incurred in trips to New York City to become familiar with the stock market and purchase stock is to be considered a substantiated proper deduction.

FINDINGS OF FACT

1. Petitioner, Joseph J. Liss, timely filed a 1971 personal income tax return. On audit, the Income Tax Bureau disallowed expenses incurred for a separation agreement and trips to New York City for information and stock transactions as being unsubstantiated and personal in nature. Also, a difference in the amount of Federal and New York State itemized deductions was adjusted. A Notice of Deficiency was issued May 20, 1974 in the amount of \$150.53 additional tax due plus \$18.94 interest for a total of \$164.47. Petitioner, Joseph J. Liss, agreed to all issues except for the expense incurred for trips to New York City.

2. While at a lake in upstate New York, petitioner, Joseph J. Liss, became acquainted with Mr. G. Sprinsky, a New York City stock-broker. The broker invited petitioner to confer with him in New York City and learn about the stock market.

3. Petitioner, Joseph J. Liss, made seven or eight trips to New York City at a cost of \$117.00 or \$118.00. During these trips he became familiar with stock market operations and made stock transactions.

4. No evidence was introduced to substantiate the expense and amounts in question. No evidence was introduced to show that stock transactions and information related thereto could be obtained only outside of the petitioner's living area by resorting to trips to New York City.

CONCLUSIONS OF LAW

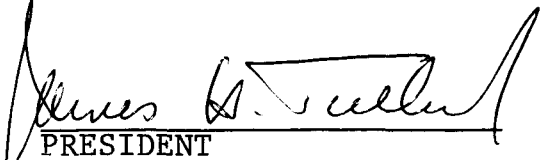
That petitioner, Joseph J. Liss, failed to carry the burden of proof that the travel expense incurred was ordinary and necessary as required by section 212 of the Internal Revenue Code.

That the petitioner failed to produce any substantiation of the claimed travel expenses as required by section 274(d) of the Internal Revenue Code.

That the petition of Joseph J. Liss is denied and the Notice of Deficiency is sustained.

DATED: Albany, New York
September 28, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER