

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALEX HERSCH

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year (~~xxxxxx~~) 1970.:
~~(xxxxxx)~~

AFFIDAVIT OF MAILING

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 27th day of April, 1977, ~~he~~ served the within
Notice of Decision by (certified) mail upon Alex Hersch
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Alex Hersch
2544 Alvin Court
Bellmore, New York 11710
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~~
~~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

27th day of April, 1977.

Bruce Batchelor

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

April 27, 1977

TELEPHONE: (518) **457-1723**

Mr. Alex Hersch
2544 Alvin Court
Bellmore, New York 11710

Dear Mr. Hersch:

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
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	:	
ALEX HERSCH	:	DECISION
for Redetermination of Deficiency or for	:	
Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Year	:	
1970.	:	

Petitioner, Alex Hersch, residing at 2544 Alvin Court, Bellmore, New York 11710, filed a petition for redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. O-58271435). A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 28, 1976, at 2:45 P.M. Petitioner, Alex Hersch appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq., of counsel).

ISSUE

What, if any, was the cost basis of 100 shares of Annadar Corporation stock on which petitioner, Alex Hersch, alleges that he sustained a \$19,072.00 loss which resulted in a claimed \$1,000.00 capital loss in the year 1970.

FINDINGS OF FACT

1. Petitioner, Alex Hersch, filed a New York State personal income tax return for 1970 in which he claimed a \$1,000.00 capital loss. The Income Tax Bureau disallowed a \$19,072.00 capital loss on 100 shares of Annadar Corporation stock, which resulted in the \$1,000.00 loss claimed, upon the grounds that the cost basis of the stock had not been substantiated. A Notice of Deficiency was issued February 25, 1974 to petitioner, Alex Hersch, for the year 1970 in the amount of \$40.23 personal income tax due, plus \$6.91 interest, for a sum of \$47.14.

2. Petitioner, Alex Hersch, contended that in 1964 he mortgaged property that he owned in order to obtain funds to purchase a 35 family unit apartment house. He formed Annadar Corporation to purchase the apartment house and owned the total 100 shares issued. In 1967, petitioner, Alex Hersch, sold the apartment house. The purchaser did not meet payments on a mortgage held by a bank and in 1970 the property was taken over by the mortgagee. Petitioner, Alex Hersch, was liable for, and continued to make, payments on the mortgage he had assumed in 1964 in order to purchase the apartment house. He computed his loss to be \$19,072.00.

3. No evidence was introduced to substantiate the cost basis of the 100 shares of Annadar Corporation stock. No evidence was introduced to show that petitioner, Alex Hersch, had, in fact, sustained a loss.

CONCLUSIONS OF LAW

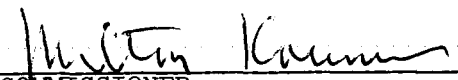
A. That petitioner, Alex Hersch, did not sustain the burden of proof in accordance with section 689(e) of the Tax Law in establishing that he had a \$19,072.00 capital loss in 1970 nor did he substantiate any cost basis for the 100 shares of Annadar Corporation stock.

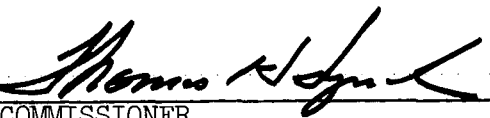
B. That the petition of Alex Hersch is denied and the Notice of Deficiency issued February 25, 1974 is sustained.

DATED: Albany, New York
April 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

REQUEST FOR BETTER ADDRESS

Requested by <i>Margaret</i>	Unit <i>107 Appeals Bureau Room 107, Bldg 9</i>	Date of Request <i>5/24/77</i>
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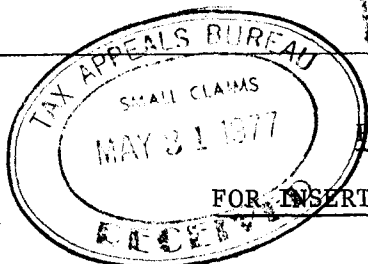
Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>107-20-5013</i>	Date of Petition <i>74/05/22</i>
Name <i>Alex Hersch</i>	
Address <i>2544 Elvir Court Bellmore, N.Y. 11710</i>	

Results of search by Files

<input type="checkbox"/> New address:	
<input checked="" type="checkbox"/> Same as above, no better address	
<input type="checkbox"/> Other:	

Searched by <i>M. Logan</i>	Section <i>Master Index</i>	Date of Search <i>5/27/77</i>
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

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TELEPHONE: (518) 457-1723

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Very truly yours,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~Representative's Representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

RECEIVED
Undelivered
Addressed to
Institution
No such street
No such city
No such state
No such country

Mr. Alex Hersch
2544 Alvin Court
Bellmore, New York 11710

STATE OF NEW YORK

STATE TAX COMMISSION

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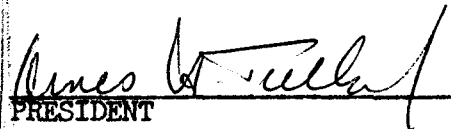
CONCLUSIONS OF LAW

A. That petitioner, Alex Hersch, did not sustain the burden of proof in accordance with section 689(e) of the Tax Law in establishing that he had a \$19,072.00 capital loss in 1970 nor did he substantiate any cost basis for the 100 shares of Annadar Corporation stock.

B. That the petition of Alex Hersch is denied and the Notice of Deficiency issued February 25, 1974 is sustained.

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April 27, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER