

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LOUIS J. ZIPPO and CATINA ZIPPO

AFFIDAVIT OF MAILING

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

State of New York
County of Albany

Bruce Batchelor, 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 February, 1977, she served the within Notice of Decision by (certified) mail upon Louis J. Zippo & Catina Zippo ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. Louis J. Zippo
1835 Bussing Avenue
Bronx, New York 10466

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 February, 1977.

Bruce Batchelor

Janet Beach



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

February 28, 1977

TELEPHONE: (518) 457-1723

Mr. and Mrs. Louis J. Zippo
1835 Bussing Avenue
Bronx, New York 10466

Dear Mr. and Mrs. Zippo:

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

Please take further notice that pursuant to
Section(~~3~~) **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,

PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
LOUIS J. ZIPPO and CATINA ZIPPO
for Redetermination of a Deficiency or for
Refund of Personal Income Taxes under
Article 22 of the Tax Law for the Year 1970.

DECISION

Louis J. Zippo and Catina Zippo, 1835 Bussing Avenue, Bronx, New York 10466, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1970. (File No. 01196).

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on July 15, 1976 at 10:20 a.m. Louis J. Zippo appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Solomon Sies, Esq. of counsel).

The record of said hearing has been duly examined and considered.

ISSUE

Whether or not the petitioners sustained an ordinary loss or a capital loss on the sale of stock during the year in issue.

FINDINGS OF FACT

1. On December 18, 1972, the Income Tax Bureau issued a Statement of Audit Changes against the petitioners, disallowing claimed ordinary loss in the amount of \$10,130.00 deducted under miscellaneous deductions. However, it allowed said loss as a capital loss to the extent of \$1,000.00. Accordingly, it issued a Notice of Deficiency imposing additional personal income tax due in the amount of \$508.14, plus interest of \$51.06, for a total of \$559.20.

2. The petitioner, Louis J. Zippo, was employed by Glore Forgan Staats Inc. in 1966. As a condition of his employment, Mr. Zippo was required to purchase a certain amount of common "B" stock of the corporation, amounting to about \$7,500.00. Thereafter, he was required to purchase additional shares of stock amounting to \$3,880.00, for a total of \$10,380.00, in order to retain his employment with said firm.

3. On or about July 2, 1970, Glore Forgan Staats Inc. repurchased petitioner's stock at \$1.00 a share, for a total of \$250.00. On the same date, Francis I. duPont and Co., a partnership, purchased the interests of Glore Forgan Staats Inc.

4. The shares of stock transferred by the petitioner, Louis J. Zippo, became worthless in 1970.

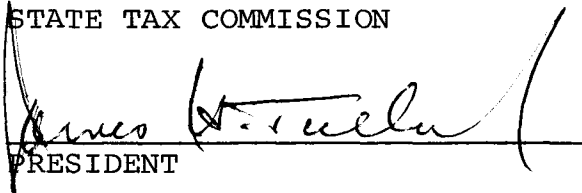
CONCLUSIONS OF LAW

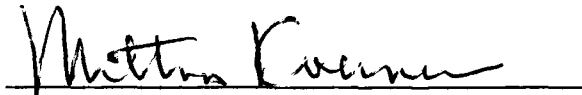
A. That in 1970 the petitioners, Louis J. Zippo and Catina Zippo, sustained an ordinary loss with respect to the shares of stock in issue herein, in the amount of \$10,130.00, since the same was deductible as a business expense or as an ordinary loss. (Southeastern Aviation Underwriters Inc., 25 TCM 412, Dec. 28, 222(m), TC Memo 1966-75.)

B. That the petition of Louis J. Zippo and Catina Zippo is granted, and the Statement of Audit Changes and Notice of Deficiency is hereby cancelled in full.

DATED: Albany, New York
February 28, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER