

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ANN CAMPION

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(xx)~~ 22 of the :
Tax Law for the Year ~~(xxxxxx)~~ 1967. :

State of New York
County of Albany

John Huhn

, 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 4th day of May , 19 79, she served the within
Notice of Decision by (certified) mail upon Ann Campion

~~(representative of)~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Ann Campion
850 Moraga Drive, Apt. #6
Los Angeles, CA 00092

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

Sworn to before me this

4th day of May , 19 79

Marilyn J. Papineau

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
ANN CAMPION

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income Tax :
~~James~~ Under Article (s) 22 of the :
Tax Law for the Year ~~(XXXXXX)~~ 1967. :


State of New York
County of Albany

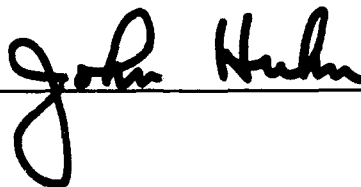
John Huhn , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 4th day of May , 19 79, ~~he~~ served the within
Notice of Decision by (certified) mail upon Albert Shlom, Esq.
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Albert Shlom, Esq.
Shlom & Littman, Esqs.
370 Lexington Ave.
New York, NY 10017
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

4th day of May , 19 79.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

May 4, 1979

Ann Campion
850 Moraga Drive, Apt. #6
Los Angeles, CA 00092

Dear Ms. Campion:

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

You have now exhausted your right of review at the administrative level. Pursuant to section ^(X) ~~690~~ of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 Months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


JOSEPH CHIRWAT
HEARING EXAMINER

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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

Petitioner, Ann Campion (formerly Ann C. Bowman) 850 Moraga Drive, Apt. #6, Los Angeles, California 90049, 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 1967 (File No. 00092).

A small claims hearing was held before Raymond J. Siegel, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 10, 1978 at 10:45 A.M. Petitioner appeared by Albert Shlom, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Aliza Schwadron, Esq., of counsel).

ISSUE

Whether petitioner, when called on to make payment as a guarantor of corporate loans, sustained a non-business bad debt limited to a short-term capital loss deduction in the year of payment, or whether petitioner had a theft loss deductible in full (less \$100.00 for each loss) in the year of discovery.

FINDINGS OF FACT

1. Petitioner, Ann Campion, filed a New York State Income Tax Resident Return (Form IT-201) as a single individual for 1967 under the name Ann C. Bowman.

2. On March 15, 1971, the New York State Income Tax Bureau issued a Notice of Deficiency and a Statement of Audit Changes against petitioner for \$2,393.44, comprised of additional personal income tax due of \$2,036.97, plus interest of \$356.47.

3. The additional tax due was based on the disallowance of a \$25,500.00 casualty loss deduction claimed on petitioner's 1967 tax return. The reasons for the disallowance, as set forth by the Income Tax Bureau, were:

- (a) The losses claimed, based on payments as guarantor of an obligation of a corporation and/or spouse, are non-business bad debts in accordance with Section 166(d) of the Federal Code and the regulations thereunder;
- (b) These bad debts must be treated as short-term capital losses in the year of payment;
- (c) The payments made by petitioner as guarantor or endorser were made in 1968 and not in 1967.

4. As co-guarantor of loans to Map, Inc. and to Hedges Inn, Inc., petitioner, in exchange for a release and satisfaction of judgment, paid the following amounts in 1968, respectively:

To: Cosmos American Corporation:

on or about 1/24/68	\$7,500.00
on or about 7/17/68	<u>2,500.00</u>
Total to Cosmos	\$10,000.00

To: New York Business Development Corp.:

on or about 1/10/68	<u>15,500.00</u>
Total paid as co-guarantor	<u>\$25,500.00</u>

5. Petitioner relied on the claim that she guaranteed these loans because of untrue representations made to her by her husband, A. Hunter Bowman, in connection therewith as to collateral supposedly existing to cover said loans. Petitioner states that these representations were untrue and were the subject of criminal misrepresentations made to her and to others by A. Hunter Bowman. Petitioner maintained that she sustained a theft loss, upon having to personally pay off the loans.

6. Petitioner married A. Hunter Bowman in September of 1963 and was divorced from him in April of 1969, again taking "Campion" as her name. She became separated from Mr. Bowman in 1967.

7. From the time of their marriage until sometime in 1965, A. Hunter Bowman was a vice-president of Marine Midland Trust Company, a New York bank.

8. A. Hunter Bowman had formed two corporations, Map, Inc. and Hedges Inn, Inc., and was their principal stockholder and officer. Petitioner represented that she may have been an officer and director of one or more corporations owned and/or controlled or otherwise involved with A. Hunter Bowman, but her positions, if any, were illusory and she was not active in any such corporations and was totally unaware of any phase of their operations.

9. Petitioner stated that around the beginning of June, 1965, her husband A. Hunter Bowman, insisted that she guarantee loans made by Map, Inc. and Hedges, Inc. Accordingly, she endorsed the loans as guarantor.

10. A. Hunter Bowman was indicted on July 6, 1967, on eight counts of abstraction and misappropriation of money, funds and property of a corporation during the period November 26, 1963 through March 18, 1965. Mr. Bowman subsequently pleaded guilty to and was convicted of three of said counts. These charges were related to A. Hunter Bowman's position with Marine Midland Trust Company and were not related to petitioner's claim.

CONCLUSIONS OF LAW

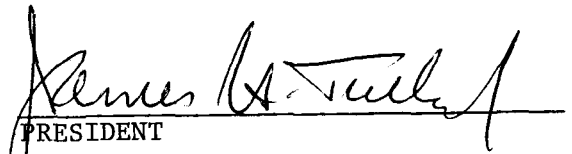
A. That the payments made by petitioner, Ann Campion, in 1968 as a guarantor of a worthless debt, did not constitute theft losses; that the aforementioned payments are non-business bad debts considered to be short-term capital losses, pursuant to section 166(d) of the Internal Revenue Code and the regulations thereunder, deductible in the year of payment; thus, petitioner was not entitled to any deduction in 1967 for said payments.

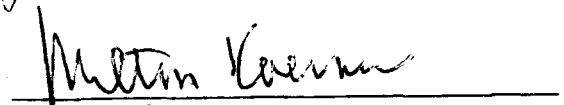
B. That the petition of Ann Campion is denied and the Notice of Deficiency issued March 15, 1971 is sustained, together with such interest as may be due pursuant to section 684 of the Tax Law.

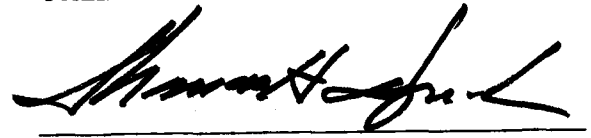
DATED: Albany, New York

May 4, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER