

PERSONAL INCOME TAX

22

DEFAULT;

CAPITAL LOSS CLAIMED

STATE OF NEW YORK

STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION OF

JOSEPH AND LILLIAN LESHINSKY

PETITION FOR A REDETERMINATION OF A  
DEFICIENCY, OR FOR REFUND OF PERSONAL  
INCOME TAXES UNDER ARTICLE 22 OF THE  
TAX LAW FOR YEARS 1960, 1961 AND 1962

CASE LAW CITATIONS

DECISION

Joseph Leshinsky, one of the taxpayers herein, having filed a petition for a redetermination of deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the years 1960, 1961 and 1962, and a notice of hearing having been mailed to the taxpayers on October 20, 1965 scheduling a hearing at 80 Centre Street, New York, New York for November 22, 1965 at 3:30 o'clock before Frank DeBellis, Hearing Officer of the Department of Taxation and Finance, and the taxpayers having defaulted in appearance thereat and the matter having been duly examined and considered,

The State Tax Commission hereby finds:

(1) That the taxpayers filed joint nonresident New York State income tax returns for the years 1960, 1961 and 1962.

(2) That in each nonresident return filed by the taxpayers for the years 1960, 1961 and 1962, claim was made for \$1,000 loss from the sale or exchange of capital assets.

(3) That on April 13, 1964 audit changes were made recomputing the tax liability of the taxpayers for the years 1960, 1961 and 1962, disallowing the claimed capital losses and imposing additional taxes in the sum of \$57.60 for the year 1960, \$39.97 for the year 1961, and \$30.00 for the year 1962, and that notice of deficiency was issued pursuant thereto on April 13, 1964.

(4) That the taxpayers have failed to establish that the claimed capital loss deductions were derived from or connected with New York sources as required by section 632(b)(3) of the Tax Law.

Based upon the foregoing findings, the State Tax Commission hereby

DECIDES:

That the notice of deficiency imposing additional taxes upon the taxpayers for the years 1960, 1961 and 1962 is correct; that said notice of deficiency does not include any tax or other charges which could not have been lawfully demanded; and that the taxpayers' petition for redetermination of deficiency with respect thereto be and the same is hereby denied.

DATED: Albany, New York      On the 15th day of      July      1969.

Norman Gallman  
Commissioner

Bruce M. M. M. M.  
Commissioner

Matthew K. K.  
Commissioner