

STATE OF NEW YORK  
STATE TAX COMMISSION

*Joseph B. Loew*  
*Personal Income*  
*1971*

In the Matter of the Petition

of

JOSEPH B. LOEW

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1966.

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY (CERTIFIED) MAIL

State of New York  
County of Albany

Linda Wilson, 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 29th day of March, 1971, she served the within  
Notice of Decision (or Determination) by (certified) mail upon JOSEPH B.

LOEW (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Joseph B. Loew  
6338 7th Ave. North  
St. Petersburg, Florida 33707

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative  
of) 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

29th day of March, 1971.

*Joseph B. Loew*

*Linda Wilson*

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
JOSEPH B. LOEW	:	DECISION
For Redetermination of Deficiency	:	
or for Refund of Personal Income	:	
Taxes under Article 22 of the Tax	:	
Law for the Year 1966.	:	

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Petitioner, Joseph B. Loew, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1966 (File #53183848). A Notice of Formal Hearing was sent to petitioner scheduling a formal hearing before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on February 26, 1971, at 10:30 A.M. Prior to the hearing date, petitioner advised the Income Tax Bureau that he wished to waive a formal hearing and submit the matter to the State Tax Commission on the entire record contained in the file. The following decision is rendered by the State Tax Commission upon due consideration of said record.

FINDINGS OF FACT

1. Petitioner, Joseph B. Loew, and his wife filed a New York State income tax nonresident return for the year 1966 wherein they deducted against income \$1,000.00 as a carryover capital loss.

2. On November 25, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Joseph B. Loew, and his wife disallowing a deduction of \$1,000.00 from their New York income upon the grounds that a loss from the sale of stock was an improper deduction for a nonresident and accordingly issued a Notice of Deficiency in the sum of \$80.39.

3. Petitioner, Joseph B. Loew, and his wife were residents of the State of New York during the year 1962.

4. During the year 1962, petitioner, Joseph B. Loew, and his wife sold common stocks resulting in a capital loss in excess of \$6,000.00.

5. During the year 1966, petitioner, Joseph B. Loew, and his wife were residents of the State of Connecticut.

6. The capital loss sustained by petitioner, Joseph B. Loew, and his wife was not derived from or connected with New York sources.

CONCLUSIONS OF LAW

A. That the residential status of the petitioner, Joseph B. Loew, and his wife in the year they sought to take the deduction of the capital loss carry-over credit determined whether they might take the deduction, where the capital loss was not derived from or connected with New York sources. Even though they were residents in the year the capital loss was sustained, they were nonresidents in the year they sought to deduct the capital loss carry-over credit, and therefore could not take such deduction. Petition of George W. Melcher, Jr. et al, N.Y.S.T.C., November 27, 1970.

B. That the petition of Joseph B. Loew is denied and the Notice of Deficiency issued November 25, 1968, is sustained.

DATED: Albany, New York  
March 29, 1971

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER