

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT and LILLIAN PRESS

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~or Period(s)~~ :  
1968 and 1969.

State of New York  
County of Albany

Catherine Steele, 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 October, 1976, she served the within  
Notice of Decision by (certified) mail upon Robert & Lillian Press

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. & Mrs. Robert Press  
70 Dahill Road  
Brooklyn, New York 11218

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 October, 1976.

Catherine Steele

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

October 4, 1976

TELEPHONE: (518) 457-3850

Mr. & Mrs. Robert Press  
70 Dahill Road  
Brooklyn, New York 11218

Dear Mr. & Mrs. Press:

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: ~~Section Chief, Tax Appeals Bureau~~

Taxing Bureau's Representative:

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ROBERT and LILLIAN PRESS	:	DECISION
for a Redetermination of a Deficiency or	:	
for Refund of Personal Income Taxes under	:	
Article 22 of the Tax Law for the Years	:	
1968 and 1969.	:	

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Petitioners, Robert and Lillian Press, 70 Dahill Road, Brooklyn, New York 11218, filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for 1968 and 1969. (File No. 9-36900161). A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 7, 1976. Petitioner appeared pro se and for his wife, Lillian Press. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Were carryover losses deductible in the tax years 1968 and 1969, in connection with a net operating loss resulting from casualties incurred in 1967?

FINDINGS OF FACT

1. Petitioners filed resident New York State income tax returns for 1968 and 1969 showing applied net operating loss carryovers of \$13,185.00 and \$16,827.77, respectively. Upon audit, the Income Tax Bureau issued a deficiency disallowing the applied carryover losses.

2. Petitioner was the sole proprietor of a tailor shop located at 474 Kings Highway, Brooklyn, New York.

3. On January 18, 1967, the tailor shop was burglarized for a total of \$8,946.00 in merchandise and cash, as estimated by the petitioner. On January 23, 1967, the tailor shop was again burglarized for a total of \$18,975.00 in merchandise, as estimated by the petitioner.

4. Petitioner asserts that these losses were not covered by insurance and in order to commence his business activities, a loan for \$12,525.00 from the Small Business Administration was obtained.

5. On July 2, 1967, the tailor shop was totally destroyed by fire, resulting in an estimated loss of \$12,120.00. The insurance company settled the fire loss claimed, for the gross approximate amount of \$12,000.00.

6. Subsequent efforts to reestablish his tailor shop at a different location were unsuccessful. On July 31, 1968, as a result of these efforts and the various losses suffered in 1967, the petitioner was declared a bankrupt.

CONCLUSIONS OF LAW

A. That no evidence was submitted by the petitioner to justify the failure to first carry the 1967 loss back to the years 1964, 1965 and 1966 as required by section 172 of the Internal Revenue Code and Regulations thereunder.

B. That the net operating loss, which resulted from casualty losses incurred by the petitioner, Robert Press, in 1967, was incorrectly carried forward and applied to the years 1968 and 1969.

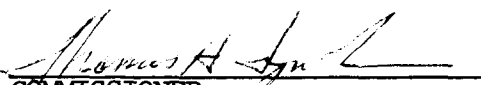
C. The petition of Robert and Lillian Press is denied and the Notice of Deficiency issued April 10, 1972 is sustained.

DATED: Albany, New York  
October 4, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER