

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MARTIN and ELAINE ZUCKERBROD

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article(x) 22 of the :
Tax Law for the Year(s) ~~xxxxxx~~ :
1970 and 1971.

State of New York
County of Albany

Janet Mack , 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 3rd day of December , 1976, she served the within
Notice of Decision by (certified) mail upon Martin and Elaine
Zuckerbrod (~~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. Martin Zuckerbrod
585 Park Avenue
Cedarhurst, NY 11516

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

3rd day of December , 1976.

Mary Giff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

December 3, 1976

TELEPHONE: (518) ~~457-3850~~

Mr. & Mrs. Martin Zuckerbrod
585 Park Avenue
Cedarhurst, NY 11516

Dear Mr. & Mrs. Zuckerbrod:

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

Please take further notice that pursuant to
Section(s) **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
Frank J. Puccia

Enc.

Supervisor of
Small Claims Hearings

cc: ~~Petitioner's Representative~~
~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
MARTIN AND ELAINE ZUCKERBROD :
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1970, and 1971. :

DECISION

Petitioner, Martin and Elaine Zuckerbrod, residing at 585 Park Avenue, Cedarhurst, New York 11516, have filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1970 and 1971.

A small claims hearing was held before Joseph Marcus, Hearing Officer, on Friday, July 16, 1976 at the offices of the State Tax Commission, Department of Taxation and Finance, Two World Trade Center, Room 6531, 65th Floor, New York, New York at 1:15 P.M. The petitioner appeared pro se, and for his wife, Elaine Zuckerbrod. The Income Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz Esq. of counsel).

ISSUE

Whether an installment payment made pursuant to a contract for the purchase of capital stock is deductible as a bad debt when payment is made after the capital stock is deemed worthless.

FINDINGS OF FACT

1. Petitioners, Martin and Elaine Zuckerbrod, filed New York State income tax resident returns for 1970 and 1971, (Forms IT-208). They deducted losses, realized from installment payments on worthless stock, in the amounts of \$1,987.50 in 1970 and \$2,200.00 in 1971.

2. On June 24, 1974, the Income Tax Bureau issued a Notice of Deficiency against the petitioners in the amount of \$484.19 plus interest of \$77.67 for a total of \$561.86. The additional amount of the tax due resulted from the Income Tax Bureau disallowance of the aforementioned losses taken as ordinary deductions.

3. Petitioner, Martin Zuckerbrod, stated that he entered into a contract with stockholders, to purchase stock of Johnny Johnstons Charcoal Room, Inc. in February, 1968. Payment for the stock was made on an installment basis commencing in February, 1968 and continuing monthly thereafter until the stock was paid for in its entirety.

4. The corporation terminated operations in January, 1970 and was dispossessed from its premises. There were no assets available and the stock became worthless in 1970.

5. Petitioner, Martin Zuckerbrod, claimed that under the terms of his contract, he was obligated to continue payments for the purchase of the stock; payments amounted to \$1,987.50 and \$2,200.00 respectively for the years 1970 and 1971.

CONCLUSIONS OF LAW

A. That the loss sustained by the petitioner was a capital loss as defined in section 1222 of the Internal Revenue Code.

B. That as a capital loss the deduction is limited to \$1,000.00 per year as defined in section 1211(b) of the Internal Revenue Code.


C. That the petition of Martin and Elaine Zuckerbrod is denied and the Notice of Deficiency issued for the years 1970 and 1971 is sustained.

DATED: Albany, New York
December 3, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER