

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-85 (3) I
Income Tax
June 6, 1985

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. 1840221B

On February 21, 1984, a Petition for Advisory Opinion was received from Mark Lotaj, 2250 Olenville Avenue, Bronx, New York 10467.

The issue raised is whether Petitioner's claim of a casualty loss should be allowed for purposes of the personal income tax imposed under Article 22 of the Tax Law.

Petitioner states that he incurred a casualty loss as a result of an earthquake which damaged Petitioner's summer house in Yugoslavia. Petitioner claimed a casualty loss for federal income tax purposes. Petitioner's federal claim was disallowed by the Internal Revenue Service. Petitioner consented to the federal disallowance.

Section 165 of the Internal Revenue Code allows an itemized deduction from federal adjusted gross income for certain losses sustained by taxpayers.

Section 615(a) of the Tax Law provides that a taxpayer's New York itemized deductions shall equal his federal itemized deductions (with exceptions not here relevant). The Tax Law contains no specific provision for the deduction of losses in computing New York personal income tax.

Accordingly, since the Petitioner's losses are not allowable as a deduction for federal income tax purposes, they are similarly not allowed as a deduction for New York State personal income tax purposes.

DATED: April 30, 1985

FRANK J. PUCCIA
Director
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth herein.