82-SBE-297

BEFORE THE STATE BOARD OF- EQUALIZATION

OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
SAM AND DINA HASHMAN)

OPINION ON PETITION FOR REHEARING

On June 29, 1982, we sustained the Franchise Tax Board's assessment of additional personal income tax against Sam and Dina Hashman in the amount of $51,450.00 for the year 1976. In our original opinion, this board concluded that appellants were not entitled to a bad debt deduction for certain advances they made to Transinforms International, Ltd. because these advances were contributions to capital rather than loans. Subsequently, appellants filed a petition for rehearing in which they argue that they are entitled to a deduction for a worthless security loss pursuant to subdivision (g) (1) of California Revenue and Taxation Code section 17206. Although not discussed in our opinion; this alternative theory was considered and rejected. A deduction for a worthless security loss is allowed only if the taxpayer proves that the security became totally worthless in the year for which the deduction is claimed. -(Appeal of William-C. and Lois B. Hayward, Cal. St. Bd. of Equal., October 3, 1967). The minutes of a meeting of the shareholders of Transinforms held on September 2, 1976 reveal that as of that date three of the company's marketing leads had the potential to produce revenue. We have no evidence to refute the assumption that this potential still existed at the end of 1976. Therefore, appellants have not proved that the Transinforms stock became totally worthless during 1976, and they are not entitled to a worthless security loss deduction. Since appellants have provided no new facts which would cast doubt upon respondent's determination of their income tax liability, we must affirm our prior action in this case.,

Appeal of Sam and Dina Hashman

ORDER

Pursuant to the views expressed :in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18596 of the Revenue and Taxation Code, that the petition of Sam and Dina Hashman :Eor rehearing of their appeal from the action of the Franchise Tax Board on their protest against a proposed assessment of additional personal income tax in the amount of $51,450.00 for the year 1976 be and the same is hereby denied, and that our order of June 29, 1982, be and the same is hereby affirmed.

Done at Sacramento, California, this 7th day of December , 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr., Member

Richard Nevins, Member

_____ Member

_____, Member