

Appellant Anthony

Throughout 1974, appellant owned 1,000 shares of stock in Silver Maque Mining, Ltd., a Canadian company. On his 1974 California personal income tax return, he claimed a deduction in the amount of \$1,714.00 for a loss allegedly sustained when that mining stock became worthless during the year. When asked by respondent to substantiate the loss deduction, appellant replied only that the stock was no longer listed on the Vancouver Stock Exchange and he had received no mail from the company for several years. Respondent's eventual disallowance of the loss deduction for lack of adequate substantiation gave rise to this appeal.

Section 17206 of the Revenue and Taxation Code provides for the deduction of a loss sustained as a result of a security's becoming wholly worthless during the taxable year. To be allowable as a deduction, the loss must be evidenced by closed and completed transactions, fixed by identifiable events, and actually sustained during the taxable year. (Cal. Admin. Code, tit. 18; reg. 17206(a), subd. (2).) The burden is on the taxpayer to establish that the securities became totally worthless during the year for which the deduction is claimed (Appeal of Harry E. and Mildred J. Aine, Cal. St. Bd. of Equal., April 22, 1975; Appeal of William C. and Lois B. Hayward, Cal. St. Bd. of Equal., Oct. 3, 1967), and a mere decline in the value of stock owned by the taxpayer, even though extensive, does not give rise to a deduction under section 17206 if the stock has any recognizable value on the claimed date of loss. (Cal. Admin. Code, tit. 18, reg. 17206(d), subd. (1).)

In his appeal letter, appellant contended that Silver Maque Mining, Ltd. went bankrupt during 1974, as evidenced by the fact that the company was no longer published in the stock exchange list of "The Northern Miner," a weekly Canadian mining journal. He also stated that his stockbroker had been unable to verify the date of bankruptcy. Clearly, these unsupported allegations were insufficient to establish the total worthlessness in 1974 of appellant's stock in Silver-Maque Mining, Ltd. Furthermore, during the course of the appeal proceedings, appellant submitted evidence showing that on August 14, 1979, he in fact sold his 1,000 shares of stock in Silver Maque Mining, Ltd. for \$.215 per share, netting \$156.09 on the transaction. Although appellant may be entitled to a capital loss deduction in 1979, the year the stock was sold, it seems quite obvious that he was not entitled to the worthless

Appeal of Anthony J. Shiurba

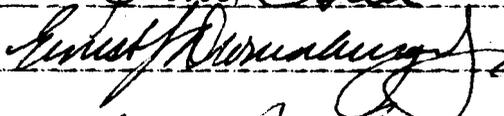
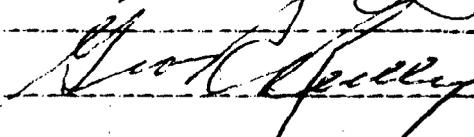
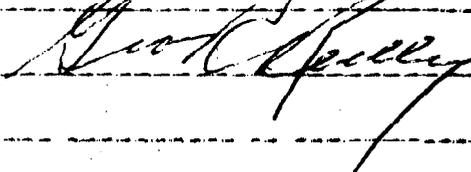
stock loss deduction which he claimed in his 1974 return. Respondent's action in this matter therefore must be sustained.

O R D E R

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

IT IS HERERY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Anthony J. Shiurba against a **proposed assess-**ment of additional personal income tax in the amount of \$123.43 for the year 1974, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of August , 1980, by the State Board of Equalization.


_____, Chairman

_____, Member

_____, Member

_____, Member