

DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 72-40

April 18, 1972

TAX APPEAL BOARD DECISIONS

PERSONAL INCOME TAX

- Non-business bad debt - gift

Taxpayer as guarantor of a loan paid the amounts due to the bank upon default of the loan. The original question was the business purpose of the guarantee of the loan. This was later changed to whether at the time of payment to the bank taxpayer made a gift to the borrower.

The Tax Appeal Board held that Petitioner never believed he would be called upon to make good on his guaranty undertaking and, while he did not receive compensation for his posting of collateral, he agreed to stand behind borrower only because he believed it would benefit the business operated by his wife.

It was further held at the time Petitioner paid the bank he did so because he was obligated to pay not because he intended to make a gift to the borrower. It was held that Petitioner failed to realize that any action could be taken against borrower.

DECISION: For the Petitioner
Date: 4/10/72
Docket No. 448



J. H. Kennedy
Director of Revenue

jvm

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