



The Commonwealth of Massachusetts

Department of Revenue

Leverett Saltonstall Building,

100 Cambridge Street, Boston 02204

L. JOYCE HAMPERS
COMMISSIONER

June 25, 1982

Inc. was adjudicated bankrupt in 1975. You represent the trustee in bankruptcy. You state that in 1981 the trustee had Part A gross income of \$185,213 consisting of interest on Certificates of Deposit and Part B gross income of \$2.00. The trustee had expenses of \$188,776 consisting primarily of the trustee's fee and other administrative expenses.

You ask whether these expenses may be claimed as deductions against Part B income to the extent thereof and whether the remainder of these expenses may be taken as an excess trade or business deduction against Part A income.

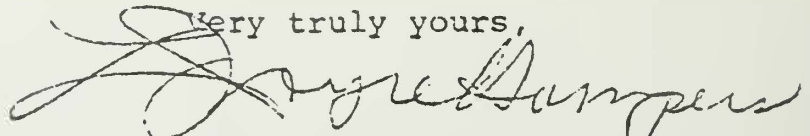
We have previously ruled that income received by fiduciaries including trustees in bankruptcy, is subject to the Massachusetts income tax (see G.L. c. 62, ss. 13 and 25) and that the trustee must report his income on a Fiduciary Income Tax Return. (LR 81-21). For corporate bankruptcy cases commencing after September 30, 1979, Section 346 of the federal Bankruptcy Act will apply. (11 U.S.C. s. 346). Section 346 requires the reporting of net taxable income of the bankrupt estate in the same manner and form as if the proceeding had not been commenced.

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General Laws Chapter 62, Section 2(d) allows a deduction against Part B gross income for ordinary and necessary expenses of a taxpayer, including a fiduciary, carrying on a trade or business. Chapter 62, Section 2(c)(1) provides that any excess of the deductions allowable against Part B gross income over the amount of Part B gross income may be taken against Part A gross income to the extent of the Part A gross income which is effectively connected with the active conduct of a trade or business of the taxpayer.

Based on the foregoing it is ruled that the ordinary and necessary expenses of a trustee in bankruptcy engaged in the business of managing and liquidating the bankrupt estate are deductible against Part B income to the extent thereof. The remainder of these expenses may be taken as an excess trade or business deduction against interest and other Part A income derived from the trustee's investment of the liquidated assets which have not yet been distributed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joseph Dampers".

Commissioner of Revenue

LJH:RSF:mf

LR 82-66