PSF: Hoke, Michael, Dr.

PSF

Subject file

Box [redacted] 152

1 set of papers

PSF: Hoke

File Hoke
Gen-C-Drawer 2-1937

February 1, 1937.

Dear Dr. Hoke:-

I have your letter of the twentieth and this is just to tell you that arrangement is being made for a further conference with you and your attorney with the Bureau of Internal Revenue. Undoubtedly you have heard from them by this time.

Do let me know if I can be of any further help.

Always sincerely,

M. A. Le Hand
PRIVATE SECRETARY

Dr. Michael Hoke,
478 Peachtree Street, N.E.,
Atlanta,
Georgia.

THE SECRETARY OF THE TREASURY
WASHINGTON

January 27, 1937.

Dear Missy:

I have asked Commissioner Helvering to give me a memorandum on the subject of Dr. Hoke's letter to you, and I know you will be interested to see that the Bureau of Internal Revenue is planning to arrange for a further conference with Dr. Hoke and his attorney in the near future.

As his letter to you was a personal one, you will probably prefer to answer it yourself. I am therefore simply sending, for your information, a copy of the memorandum submitted to me by the Commissioner of Internal Revenue. The Bureau will communicate directly with him in the matter of his appointment with their representatives in Atlanta.

Sincerely,

HMJr.

Miss Marguerite A. Le Hand,
Personal Secretary to the President,
The White House.

Enclosures.

(C O P Y)

(SEAL)

TREASURY DEPARTMENT

Washington

Office of
Commissioner of Internal Revenue

January 26, 1937

MR. SECRETARY:

In re: Dr. Michael Hoke,
Warm Springs, Georgia.
B.T.A. No. 82080.

Reference is made to your request for a report on the above case on or before January 25, 1937, in connection with a letter relative thereto addressed by the taxpayer to Miss Marguerite Le Hand, Secretary to the President.

The Commissioner determined a deficiency of $2,101.11 for the year 1932 in the case of Dr. Michael Hoke and notified the taxpayer thereof by letter dated August 22, 1935, pursuant to Section 272 (a) of the Revenue Act of 1932 (47 Stat. 233) as amended by Section 501 of the Revenue Act of 1934 (48 Stat. 755).

Dr. Hoke filed a petition with the Board of Tax Appeals on November 7, 1935. The Commissioner filed his answer thereto on December 30, 1935, and the proceeding is now on the General Calendar of the Board under Docket No. 82080.

The question raised by the appeal is whether the taxpayer is entitled to deduct from income of the year 1932 the amount of $34,600.00 as representing a loss occasioned by stock of the Atlanta Trust Company becoming worthless in that year.

The taxpayer and his attorney were afforded an oral hearing at Warm Springs, Georgia, on April 3, 1936, before a representative of the Technical Staff of the Bureau. No acceptable proposal for settlement being submitted by the taxpayer, the file was returned to the office of the Chief Counsel, Bureau of Internal Revenue, with a memorandum recommending defense. The facts of the case are set out in detail in the Staff memorandum, dated January 6, 1937, which is enclosed for your benefit.

The decisive factor in the case is whether the developments which subsequently occurred in 1933 and 1934 counteract the other facts existing in 1932 sufficiently to establish some value for the

Mr. Secretary.
In re: Dr. Michael Hoke,
B.T.A. No. 82080.

stock on December 31, 1932. In view of the factual situation outlined in the attached Staff memorandum, and having consideration for the admission contained in the second page of the deficiency notice, of which a copy is also attached, it is the present purpose of the Bureau to arrange for a further conference with the taxpayer and his attorney at Atlanta in the endeavor to reach some mutually satisfactory settlement without a hearing. This can very well be done since representatives of the Technical Staff and attorneys from the office of the Chief Counsel will be in Atlanta from February 1st to 6th and from February 23rd to 27th, 1937 in connection with the settlement and prosecution of cases before the Board of Tax Appeals, at a trial term beginning February 23rd.

It is requested that the enclosed Staff memorandum be returned when it has served your purpose since it is an original paper from the files of the Bureau. In the event that further correspondence relative to this matter is necessary please refer to IR:GC:A:RES:GWB.

(signed) Guy T. Helvering

Commissioner.

Enclosures:
Tech. Staff memo.
Copy deficiency
notice.

PERSONAL

gc

DR. MICHAEL HOKE
DR. LAWSON THORNTON
DR. CALVIN SANDISON
478 PEACHTREE ST., N. E.
ATLANTA, GEORGIA

January 20, 1937.

Miss Marguerite LeHand,
Secretary to the President,
White House,
Washington, D. C.

Dear "Missy":

I know you are terribly busy at this particular time, but I am going to assume on our friendship and encroach on your time with a request that you help me in a little matter which is causing me considerable concern, embarrassment and, unless I can get assistance, a probable financial loss which, with my limited means, will prove a burden for me to assume.

I know that you know me well enough to appreciate the fact that I do not care for, neither would I ask nor accept, any consideration to which I am not entitled and I want you to bear this in mind while reading the following statement of facts.

In the days of my youth, when I was more actively engaged than at present in the practice of surgery, I accumulated sufficient savings to purchase stock in a bank, known as The Atlanta Trust Company, investing a total amount therein of $34,600.00. The bank went on the rocks and in the year 1932 practically all of its assets were either sold or held as collateral by the Citizens & Southern National Bank on an unpaid loan due them. In November 1932 the Stockholders attempted to form a pool to rescue the assets of the corporation held as collateral, but I, as a Stockholder, refused to join the pool, preferring to lose my investment and charge it off as a loss from my income for the year 1932.

However, during the year 1933 the R. F. C. at the request of Mr. Charles H. Black, Sr., entered into an arrangement whereby the Atlanta Trust Company was again put in possession of some of the assets and given another chance to work the situation out. However, since this time the stock has been selling as low as 20¢ per share on the basis of the old stock.

My difficulty is, briefly, this - that the Income Tax Department has disallowed my loss during the year 1932 and is attempting to collect from me in excess of $2,500.00 as additional income taxes for the year 1932, stating that this stock had a value as of December 31, 1932 and therefore I could not charge it off. From a practical standpoint this is not correct, but I am informed by my attorney, Mr. Sidney J. Hayles of Atlanta, Georgia, that if this case is permitted to reach the Board of Tax Appeals, it is very probable that they will decide that because the R. F. C. saw fit to attempt to rehabilitate the company in 1933, it could not have been worthless on December 31, 1932, despite the fact that all the evidence tends to show conclusively that there was no equity at this time and that nobody could be persuaded to put up the money to rescue the assets and that I personally preferred to lose my entire investment rather than join a pool to attempt to

DR. MICHAEL HOKE
DR. LAWSON THORNTON
DR. CALVIN SANDISON
478 PEACHTREE ST., N. E.
ATLANTA, GEORGIA

Miss Marguerite LeHand.
Page No. 2 - January 20, 1937.

recover anything on it, and furthermore that sufficient people could not be convinced that enough equity value existed to form a pool. Enclosed is a copy of an affidavit, executed by Charles H. Black, Sr., Executive Vice-President of the Atlanta Trust Company, briefly attesting the foregoing facts.

Now, what I want to ask you to do for me is to ask the President if he will use his good offices with Secretary Morgenthau and Commissioner of Internal Revenue Helvering to the end that an injustice will not be worked on me in this case and that an equitable disposition be made of the issue that the ends of justice and fair taxation may be met.

My case is now pending before the United States Board of Tax Appeals, Docket No. 82080, and unless an intervention is made will probably be called for a hearing in February. I am enclosing a copy of the Petition filed with the Board of Tax Appeals.

I may add that the income tax department of the State of Georgia made a thorough investigation of this transaction resulting in a decision that I was entitled to charge the stock off as a loss during the year 1932.

Assuring you that if you can help me in this matter by securing a review and reconsideration by Commissioner Helvering you will not only do me a personal favor, but also assist in preventing an injustice being worked in this case.

Mrs. Hoke and the girls send with me Kindest Regards for President and Mrs. Rosevelt and your good self.

Sincerely,

Michael Hoke

MH•RD.

2 Enclosures.

PETITION
UNITED STATES BOARD OF TAX APPEALS

DR. MICHAEL HOKE, Petitioner vs. COMMISSIONER OF INTERNAL REVENUE Respondent.	)	DOCKET NO. 82080

PETITION

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (bearing symbols IT:AR:C-2-OMW-90D) dated August 22, 1935, and as a basis of his proceeding alleges as follows:

1.

The petitioner is a citizen of the State of Georgia, with principal place of business located in Warm Springs, Georgia.

2.

The notice of deficiency (a copy of which is attached hereto) was mailed to the petitioner on August 22, 1935, as the petitioner believes.

3.

The taxes in controversy are income taxes for the year 1932. The deficiency asserted is $2,101.11, all of which amount is in controversy.

4.

The determination of the tax, as set forth in said notice of deficiency, is based upon the following error:

In determining the taxable income of the petitioner for the calendar year 1932, the Commissioner erroneously disallowed the deduction of $34,600.00 representing loss sustained by petitioner on account of 346 shares of stock of the Atlanta Trust Company, acquired by petitioner over a period of years at a total cost of $34,600.00, which stock became worthless during the year 1932.

The facts upon which the petitioner relies as the basis of this proceeding are as follows:

That the stock in the Atlanta Trust Company became worthless during the year 1932, in light of the then existing circumstances, is not open to question but, as petitioner understands, it is the contention of the Commissioner that by reason of the fact that during the year 1933 Congress saw fit to enlarge the lending powers of the Reconstruction Finance Corporation in such a manner as to make it possible for this company to be resurrected, that this action should be retroactively applied as of December 31, 1932. On December 31, 1932 no such action could possibly have been taken as was taken at a later date to revive the corporation.

The taxpayer refused, during the year 1932, to put one dime into a syndicate which it was attempted to form for the purpose of rescuing the assets of the company from the hands of the Citizens and Southern National Bank in Atlanta, which held them as collateral on an outstanding indebtedness.

On November 1st, 1932 a Special Stockholders Meeting was held, at which meeting an effort was made to form a pool among the stockholders to buy the remaining assets of the corporation, as will be seen from Minutes of Special Stockholder Meeting, reading as follows:

"Special Stockholders Meeting held in
Atlanta, Georgia, at the Athletic
Club at three O'clock P.M.,
November 1st, 1932.

"The President appointed Alvin Cates, S. N. Evins and R.L. Walker as a committee to ascertain if there was a quorum of the stock of The Atlanta Trust Company present. The Committee reported there were 5321 shares present represented by proxy and 3251 shares represented in person, making a total of 8572 shares present.

"The President then called the meeting to order, advising that a quorum was present and the meeting was open for business.

"The Secretary read the call for the meeting.

"The President then advised the meeting as follows:

"'To the Stockholders of the Atlanta Trust Company:
On December 3, 1929 a contract was entered into between the Citizens & Southern National Bank and the Atlanta Trust Company in which said bank assumed obligations of the Trust Company in the sum of $3,609,658.63. All of the assets of the company were transferred to the bank to secure it against loss in said liquidation and in addition thereto the First National Bank, the Citizens & Southern National Bank, the Federal Reserve Bank and the Fulton National Bank agreed to indemnify the Citizens & Southern National Bank against loss to the extent of $1,050,000.

"'The contract for liquidation expires December 3, 1932 unless extended by the Citizens & Southern National Bank.

"'The Federal Reserve Bank at the time of making this contract held $1,404,687.00 of rediscounts of the Atlanta Trust Company and under the contract above mentioned held a second lien upon the assets transferred to the Citizens & Southern National Bank to protect it against loss by reason of said rediscounts.

"'These contracts were ratified and approved by the Stockholders of the Atlanta Trust Company in its meeting held in January, 1930.

"'On October 17, 1932 there was a balance due the Citizens & Southern National Bank according to its books of $142,023.71 with assets, not including those held by the Federal Reserve Bank, which it tabulates as 'Good $294,435.01 and Doubtful $41,551.75' a classification of which by the Citizens & Southern National Bank is as follows:

	Good	Doubtful
Loans,	$ 110,787.09	$ 30,745.00
Real estate loans,	15,151.20	3,641.75
Farm loans,	3,680.00	7,165.00
Real estate,	124,994.00	
Bonds,	38,000.00	
Accounts receivable,	1,822.72	
	$ 294,435.01	$ 41,551.75

"'On October 31, 1932 the balance due the Citizens & Southern National Bank according to its books was $140,827.77. The difference between the amount due on October 17th and October 31, 1932 should be deducted from the assets as shown by the above statement on October 17, 1932.

"'On October 31, 1932 the Atlanta Trust Company was indebted to the Federal Reserve Bank in the amount of $158,823.15 and that bank held rediscounts on said date in the sum of $142,456.09 and real estate valued at $29,934.48 to secure said indebtedness. I am advised by the Federal Reserve Bank that they contemplate a loss from said assets of approximately $80,000 to $90,000. This contract expires December 3, 1932.

"'Under the guaranty as above set forth the Citizens & Southern National Bank has called the said guarantor banks to make good the amount which the Atlanta Trust Company will be due the Citizens & Southern National Bank on December 3, 1932 and said guarantor banks have agreed to respond to said call.

"'Under the contract above stated the liquidation of the assets of the Atlanta Trust Company was placed in the hands of a liquidating committee composed of one member from each of the guarantor banks and the President of the Atlanta Trust Company. This committee for the past three years has earnestly endeavored to liquidate said assets transferred to the Citizens & Southern National Bank and the result of its labors is shown above.

"'The equity in the company's building and furniture was immediately taken over by the Citizens & Southern National Bank at a value of $790,000.00 the title to which passed absolutely into the Citizens & Southern National Bank.

"'Cash on hand and due by other banks was at once credited and deducting the equity in the building and cash, left a balance of $2,403,652.63 to be liquidated and which sum has been reduced on October 31, 1932 to $140,827.77.

"'At a trustees meeting of your company held on October 25, 1932 a committee was appointed to request the Citizens & Southern National Bank to carry on the liquidation of the Atlanta Trust Company for two years longer which was in effect declined and the committee will present its report to you at this meeting.

"'I do not suppose in the history of the country there could have been a more distressing time for the liquidation of the assets of this bank than the last three years but under the arrangement made the elimination of liability upon the stockholders of the company was effected.

"'The officers and trustees of the company have given their earnest and constant consideration to the interest of the stockholders through this entire period of liquidation.

"'It has been my purpose for some time past to call the stockholders of this company together. I have earnestly endeavored for the past six or eight months to formulate some plan to present at said meeting but it is only within the last two months that I have been able to do so.

"'The Federal Reserve Bank, as above stated, has a second lien upon the company's assets held by the Citizens & Southern National Bank and it was necessary to work out with the Federal Reserve Bank matters involving its second lien before there was any possibility of presenting any plausible plan or solution to the stockholders. I am now reasonably assured that the Federal Reserve Bank will interpose no objection to a sale to the Atlanta Trust Company stockholders or to any plan they might work out of the assets at a price equal to the balance due the Citizens & Southern National Bank.

"'At a conference with the officers of the guarantor banks they have declined to accept anything other than the full amount of the debt due the Citizens & Southern National Bank but stated if the stockholders of the Atlanta Trust Company desire to make a proposition for the assets in settlement of the debt due the Citizens & Southern National Bank they would promptly give a yes or no answer.

"'I am of the opinion that if the stockholders of the Atlanta Trust Company desire to pay the debt of the Citizens & Southern National Bank in full the assets of the Atlanta Trust Company held by the Citizens & Southern National Bank can be restored to the Atlanta Trust Company freed from the lien of the Federal Reserve Bank.

"'Unless the debt due the Citizens & Southern National Bank is satisfied the assets of the Atlanta Trust Company will be sold to satisfy that debt.

"'The Citizens & Southern National Bank and the guarantor banks will make no offer for settlement of the debt.

"'The stockholders of the Atlanta Trust Company must decide whether they will pay the balance due the Citizens & Southern National Bank and take over the assets held by that bank or make an offer to the Citizens & Southern National Bank for settlement of said debt and at the same time provide for a fund necessary to settle with the Federal Reserve Bank for its second lien.

"'If all the stockholders of the Atlanta Trust Company will not agree to either of the above propositions I believe an effort should be made in behalf of such stockholders as wish to participate and settle the debt and obtain the assets of the Atlanta Trust Company held by the Citizens & Southern National Bank to secure it and if sufficient funds cannot be obtained from the stockholders, to request outsiders to subscribe for the difference, it being first understood that all stockholders should first be given an opportunity to subscribe.

"'The stockholders who do not desire to subscribe would necessarily lose and be barred from any further participation in the assets.

"'It is my earnest desire that as many stockholders as possible join in subscribing for necessary funds to obtain the assets of this company in the hands of the Citizens & Southern National Bank and while all stockholders must act upon their own judgment, I believe it is but fair that I should express to you my personal opinion which is that there is a large equity in said assets to be worked out for those who participate."'

"'S. N. Evins introduced the following resolution which after being seconded was duly discussed, upon motion was unanimously passed:

"WHEREAS this company did under date of the 3rd day of December 1929 enter into a contract with the Citizens & Southern National Bank of Atlanta, Georgia whereby its assets were to be liquidated and the proceeds applied to the payment of its debts and

"WHEREAS under the terms of said contract it was provided that the period of liquidation should be brought to an end at the expiration of three years from the date of said contract unless the Citizens & Southern National Bank should agree to an extension thereof and

"WHEREAS the Citizens & Southern National Bank has refused to extend the time and said period of liquidation therefore expires on the third day of December, 1932 and

"WHEREAS the liquidation of the assets and affairs of the company has not been completed but on the contrary the Citizens & Southern National Bank has in its possession assets of this company of the approximate appraised value of $294,000.00 in addition to other assets that have been marked off as being either doubtful or worthless in value and

"WHEREAS the Citizens & Southern National Bank claims that this company is indebted to it in the approximate sum of $140,000.00 and

"WHEREAS there is outstanding a second lien or claim against said assets in the approximate sum of $150,000.00 in favor of the Federal Reserve Bank and

"WHEREAS this company is without any funds or assets with which to pay said debt except those assets in the hands of the Citizens & Southern National Bank and efforts to borrow the said sum have been unavailing and

"WHEREAS it is proper that the stockholders of this company shall have the right to either purchase for themselves said assets or join with others in so doing for their own benefit and

"WHEREAS under the terms of said liquidation contract, after December 3, 1932 the Citizens & Southern National Bank will in due course proceed to sell the remaining assets in its hands for the purpose of paying said debt at either private or judicial sale and

"WHEREAS upon the condition that whatever debt is owing to the Citizens & Southern National Bank by this company shall be paid, the second lien upon said property can be released.

"NOW THEREFORE BE IT RESOLVED:

"That the officers of this company be and they are hereby directed to advise the stockholders of this company by letter of the foregoing situation and give to each stockholder the right to subscribe to a fund for the purpose of purchasing said assets at such sale as shall be had thereof in the proportion of their stock holdings in this company. Should any stockholder fail to subscribe to such fund then his portion may be allotted to any other person in the discretion of the officers of this company.

"RESOLVED FURTHER that if the stockholders of this company shall fail to subscribe to a fund sufficient for such purpose, that the officers of this company are authorized to permit outsiders to subscribe to such fund in such proportion as they may be willing to do.

"RESOLVED FURTHER that upon the completion of such syndicate or subscription agreement, that the subscribers thereto may purchase the assets of this company now in the hands of the Citizens & Southern National Bank for their own benefit, each to share in the proceeds thereof in the proportion of the amount of his subscription.

"RESOLVED FURTHER that said subscription list, insofar as the stockholders of this company are concerned, shall expire on the 15th day of November, 1932 and that thereafter no person shall have any right to subscribe to such fund because of his ownership of stock in this company.

"The committee appointed by the trustees of the company to request an extension of the time of liquidation of the Atlanta Trust Company was requested to make its report which was as follows:

"'Your committee appointed at a meeting of the trustees of the Atlanta Trust Company held on October 25, 1932 for the purpose of requesting the Citizens & Southern National Bank to extend the time for liquidating the assets of the Atlanta Trust Company for a period of two years from December 3, 1932 and to make their report at this meeting of the stockholders, advise as follows:

"'Mr. S. N. Evins was nominated as chairman of the committee.

"'Your committee called upon the Executive Vice President of the Citizens & Southern National Bank and requested that he extend the time of the liquidation of the Atlanta Trust Company for a period of two years.

"'He stated there were other banks involved by reason of their guaranty in connection with the liquidation of the Atlanta Trust Company but that he was unwilling to extend the time of liquidation.

"'As it was the Citizens & Southern National Bank that was to furnish the funds to carry on the liquidation, your committee believe it was unnecessary to take any further steps in the premises as nothing could be accomplished.

"'They therefore report that in their opinion the time of liquidation cannot be extended.

(Signed) Samuel Nesbitt Evins
" A. J. Orme
" Alvin B. Cates '"

"'The committee advised that the President had received a letter dated November 1, 1932 from Mr. W. B. Spann, Vice President of the Citizens & Southern National Bank, after a conference between the committee and the Citizens & Southern National Bank which was as follows:

"'Atlanta, Georgia
November 1, 1932.

"'Mr. A. J. Orme, President,
"'Atlanta Trust Company
"'Atlanta, Georgia.

"'Re: Termination of period of liquidation.

"'Dear Mr. Orme:

"'I wish to confirm what has been told you in various conferences between you, ourselves and representatives of the other clearing house banks, extending over a period of several months, that the debt of the Atlanta Trust Company will not be carried by us beyond December 3, 1932.

"'If the debt is not paid on that date it will be necessary that the remaining assets be disposed of to retire the unpaid balance.

"'Yours very truly,
"'(Signed) "'W. B. Spann,
"'Vice President.'"

"'Upon motion a resolution was passed directing the President of this company to request the Citizens & Southern National Bank and the three guarantor banks to extend the liquidation of the Atlanta Trust Company for a period of one to two years. This motion, after being seconded, was unanimously passed.

"'The following resolution was introduced by Mr. R. P. Jones, which after being seconded, was upon motion, unanimously passed with the exception of one dissenting vote:

"'WHEREAS the stockholders of this company have heretofore, in December, 1929, voted in favor of the liquidation of the company and

"'WHEREAS said liquidation is approaching a conclusion and

"WHEREAS it is considered that further meetings of the stockholders are unnecessary

"NOW THEREFORE BE IT RESOLVED: First, that all powers of the stockholders of this company, where delegable by law, are hereby delegated to the Board of Trustees.

"Second, that the Board of Trustees are hereby given plenary powers over the affairs of this company, both in conduct and winding up.

"Third, that when proper in their judgment the Board of Trustees are hereby given full authority to surrender the charter of this company to the State of Georgia and to cause its affairs to be completely wound up.

There being no further business, upon motion the meeting adjourned.

"(Signed) A. J. Orme
"President

"(Signed) J. B. Wheat
"Secretary "

It was stated in the above minutes of Special Stockholders Meeting, as follows:

"The stockholders who do not desire to subscribe would necessarily lose and be barred from any further participation in the assets."

Taxpayer refused emphatically to join the pool, preferring rather to be barred from any further participation in the assets or equity (if any) remaining in the company.

A sufficient number of people with money could not be persuaded that it was profitable to purchase the assets for the outstanding indebtedness and the pool failed of completion.

6.

WHEREFORE, Petitioner prays that the Board may hear the proceeding, and further prays that the Board may find:

(a) That the 346 shares of stock held by petitioner in the Atlanta Trust Company of Atlanta, Georgia became worthless during the year 1932.

(b) That there is no deficiency due from petitioner on account of income taxes for the calendar year 1932.

Sidney J. Hayles
Sidney J. Hayles, Attorney for Petitioner
509-10-11-12 First National Bank Bldg.,
Atlanta, Georgia.

STATE OF GEORGIA)
) SS.
COUNTY OF MERIWETHER)

Dr. Michael Hoke, being duly sworn according to law, says that he is the petitioner above named; that he has read the foregoing petition or had the same read to him and is familiar with the statements contained therein and that the facts stated are true, except as to those facts stated to be upon information and belief and those facts he believes to be true.

Michael Hoke

Subscribed and sworn to before me this

5th day of November, 1935.

Rose Ingred Rhebergh
Notary Public,
Notary Public, State at Large, Atlanta, Ga.
My Commission Expires June 19, 1938.

TREASURY DEPARTMENT

Office Of
COMMISSIONER OF INTERNAL REVENUE WASHINGTON
Address Reply to
Commissioner of Internal Revenue
And Refer to

Aug 22 1935

Dr. Michael Hoke,

Warm Springs, Georgia.

Sir:

You are advised that the determination of your income tax liability for the year (s) 1932 disclose a deficiency of $ 2,101.11 as shown in the statement attached.

In accordance with section 272 (a) of the Revenue Act of 1932, as amended by section 501 of the Revenue Act of 1934, notice is hereby given of the deficiency mentioned. Within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the ninetieth day) from the date of the mailing of this letter, you may file a petition with the United States Board of Tax Appeals for a redetermination of the deficiency.

Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:C:P-7. The signing and filing of this form will expedite the closing of your return(s) by permitting an early assessment of the deficiency and will prevent the accumulation of interest, since the interest period terminates thirty days after filing the form, or on the date assessment is made, whichever is earlier.

Respectfully,

Guy T. Helvering,

Commissioner.

By (Sgd.) Chas. T. Russell

Deputy Commissioner.

Enclosures:
Statement
Form 870

STATEMENT

IT:AR:C-2
OMW-90D

In re: Dr. Michael Hoke,
Warm Springs, Georgia.

Income Tax Liability

Year	Income Tax Liability	Income Tax Assessed	Deficiency
1932	$2,101.11	None	$2,101.11

The records of this office indicate that no reply has been received to letter dated July 17, 1935, advising you of the approval of the report submitted by the internal revenue agent in charge at Atlanta, Georgia, a copy of which was transmitted to you.

Careful consideration has been accorded your protest dated January 2, 1935, in connection with the findings of the examining officer and the information submitted at a conference held in the office of the internal revenue agent in charge.

Loss shown on return	$11,817.01
Add:	
Worthless stock disallowed	34,600.00
Net income adjusted	$22,782.99

Computation of Tax

Net income adjusted	$22,782.99
Less:	
Personal exemption and credit for dependents,	2,900.00
Balance subject to normal tax	$19,882.99

Dr. Michael Hoke. Statement

Normal tax at 4% on $4,000.00	$ 160.00
Normal tax at 8% on $15,882.99	1,270.64
Surtax on $22,782.99	670.47
Balance subject to normal tax	$ 2,101.11
Tax previously assessed	None
Deficiency	$ 2,101.11

Explanation of Changes

You contend that you are entitled to a deduction on worthless stock in the amount of $34,600.00 because the existing circumstances at December 31, 1932, were such as to show that the stockholders of the Atlanta Trust Company would never recover anything on their investment. You also contend that the fact that in the subsequent year the Reconstruction Finance Corporation loaned the Atlanta Trust Company a considerable sum of money is not controlling.

From the information submitted in your protest it appears that the affairs of the Atlanta Trust Company were almost hopelessly insolvent at December 31, 1932. It does appear, however, that during this period the officers of the Atlanta Trust Company, acting through A. J. Orme, were endeavoring to secure a loan from the Reconstruction Finance Corporation and that they had never abandoned hope of making some recovery on their investment. It appears that until the law, regulating the Reconstruction Finance Corporation loans, was amended in 1933 that it was unable to secure a loan from that agency. After the law was amended a loan was secured from the Reconstruction Finance Corporation and it now appears quite certain that the stock of the Atlanta Trust Company has some value and that some recovery will be made. Admitting that the affairs of the Atlanta Trust Company were quite involved at December 31, 1932, yet, nevertheless, it is a fact that some recovery will be made and therefore the loss claimed cannot be allowed as a deduction under the provisions of article 174 of Regulations 77.

COPY

GEORGIA)
) SS.
FULTON COUNTY)

Personally appeared before me the undersigned authority, one CHARLES H. BLACK, SR., who, upon oath, deposes and says that the following statements are both true and correct:

That during the year 1932, and for several years prior thereto, he was the Executive Vice-President of the Atlanta Trust Company.

That on November 1st, 1932, he, as a Stockholder of the Atlanta Trust Company, attended a Special Stockholders Meeting held in Atlanta, Georgia, at which meeting an effort was made to form a pool among the Stockholders to buy the remaining assets of the corporation, held by the Citizens & Southern National Bank as collateral for a loan on which there was a balance due of $140,827.77.

That at this meeting it was provided that if a Stockholder did not participate in the pool he would necessarily lose and be barred from any further participation in the assets if it should develope that any equity existed after paying the debt due the Citizens & Southern National Bank and at the same time providing for a fund necessary to settle with the Federal Reserve Bank.

The Stockholders refused to subscribe the amount necessary to rescue the assets of the company and this effort was, therefore, abandoned.

That he then attempted to induce several capitalists to lend the amount of money necessary, but was unable to persuade any party that the realizable value of the assets was in excess of the loans outstanding.

That the Citizens & Southern National Bank served notice on November

That on December 31, 1932 he had, as he then thought, exhausted every available avenue open for refinancing the corporation and, therefore, was reluctantly compelled to concede, as of this date, that the Stockholders had lost their entire equity in their stock and that nothing could be realized therefrom on their behalf. He was, therefore, firmly convinced that the stock, to all intents and purposes, was worthless on December 31, 1932.

That during the year 1933 the Reconstruction Finance Corporation, under enlarged powers granted by Congress, attempted to re-habilitate many banks throughout the country which had been compelled to close during the depression. That he took the matter up with R. F. C. on the grounds that, since all of the depositors had been safe-guarded by the action of the bank in surrendering all of its assets to the Citizens & Southern National Bank as a liquidating agent and since a guarantee of $100,000.00 was made said bank by some of the Officers and Directors in order to induce them to assume this liability to the depositors of the Atlanta Trust Company as they did not consider there were sufficient assets to protect them, the Atlanta Trust Company was due preferred consideration. The Citizens & Southern National Bank, not having completed the liquidation of the assets, which had increased considerably in value since January 1, 1933, the R. F. C. agreed to advance the funds necessary to pay the balance due Citizens & Southern National Bank, thus releasing the assets. This action could not have been taken on December 31, 1932. Despite this redemption the stock of the Atlanta Trust Company has been selling, since this time, as low as twenty cents (20¢) a share on the basis of the old stock.

(SIGNED) CHAS. H. BLACK.

Subscribed and sworn to before
me this 27 day of April, 1936.

(SIGNED) KING STILLMAN
Notary Public, State at Large. Ga.

(NOTARY SEAL).