

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EUGENE R. & JEANETTE STUDENSKI

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article(s) 22 of the
Tax Law for the (Year(s)) 1964 and 1965;

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Lynn Wilson, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 21st day of March, 1972, she served the within Notice of Decision (or Determination) by (certified) mail upon EUGENE R. & JEANETTE STUDENSKI (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Eugene R. and Jeanette Studenski
3 Seadrift Landing
Tiburon, California 94920
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative of) petitioner herein and that the address set forth on said wrapper is the last known address of the (representative of the) petitioner.

Sworn to before me this

21st day of March, 1972.

Rae Zimmerman

Lynn Wilson



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO

COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
March 21, 1972

Eugene R. & Jeanette Studenski
3 Seadrift Landing
Tiburron, California 94920

Dear Sir and Madam:

Please take notice of the **DECISION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **section 690 of**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

In the Matter of the Petition :
of :
EUGENE R. & JEANETTE STUDENSKI : DECISION
for a Redetermination of a Deficiency or :
for Refund of Personal Income Taxes under :
Article 22 of the Tax Law for the Years :
1964 and 1965. :

A formal hearing was held at the offices of the State Tax Commission, Buffalo, New York, on August 6, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer, Eugene R. Studenski, appeared personally and the Income Tax Bureau was represented by Edward H. Best, Esq., (Alexander Weiss, Esq., of Counsel).

II. Were the unreimbursed expenses of the petitioner for professional conventions and conferences, ordinary and necessary business expenses?

2. Notices of Determination of deficiencies in personal income taxes for the years 1964 and 1965 were issued on December 4, 1967, against the taxpayers, under File No. 18524281 and on January 27, 1969,

under File No. 38536775. The taxpayers petitioned for redetermination of the deficiencies.

3. Eugene R. Studenski was practicing medicine in Oswego and he was employed as a director of the Divisional Laboratories and Research of Oswego County as well as a practicing pathologist during the years in issue.

4. The only items on the notices of deficiencies disputed by the taxpayers were the disallowance of meals, business promotion expenses and, or employees Christmas party expense in the amounts of \$397.37 in 1964 and \$414.06 in 1965, and unreimbursed conference and convention expense in the amount of \$289.06 in 1965. Eugene R. Studenski was reimbursed some very limited expense for attendance at professional meetings and conferences.

5. The disallowance of the above items was based on the Bureau's determination that the expenses were not ordinary and necessary business expenses, or the further argument that the petitioner, Eugene R. Studenski, was a Civil Service employee and he could not deduct these unreimbursed expenses. The amounts of the expense are not disputed.

6. The petitioner's position as director and as pathologist with Oswego County, had the responsibility for seeing to it that laboratory services were satisfactory to the needs and desires of the practicing physicians of the neighborhood. The pathologist's position depended upon the relationship of all of the laboratory personnel with the practicing physicians and the hospital personnel and their ability to satisfy the needs of the physicians. There was a shortage of qualified personnel for this laboratory work. The work required the hospital laboratory to be covered 24 hours a day and holidays and weekends and was oftentimes very exacting and demanding.

7. Several of petitioner's predecessors had left or been unsuccessful because of the poor morale of personnel in the face of the

24-hour coverage and demands of the work. In the private hospitals of the area, there was a tradition or a custom of a Christmas party by the directors of the laboratories for their personnel, being a form of annual recognition.

9. At the Christmas parties, in addition to the laboratory personnel, the petitioner also invited representatives of the supervisory committee of the County legislature, certain key personnel of the hospital who were closely related to the work of the laboratory and occasionally some physicians.

10. At these functions the personnel of the laboratory were able to meet with the legislators, and the key members of the hospital personnel and staff, and make known some of their services, needs and problems.

11. There was a much more friendly interrelationship between the employees, and between the hospital staff and the employees and a greater appreciation and recognition of their work. The employees were able to meet with the hospital and public officials on a social level and these officials were able to hear directly from the technicians and learn of their work and their feelings of accomplishment when they had done it properly.

12. Morale and performance improved as a result of these practices.

13. The expenditures were paid by the petitioner and were not and could not be reimbursed.

14. The expenditures for attendance at professional meetings and conferences were reasonable amounts and were consistent with those of other physicians.

15. The petitioner's attendance at these functions was an ordinary practice and reasonably necessary to keep abreast of a laboratory director's and pathologist's work.

CONCLUSIONS OF LAW

A. The Christmas parties, meals and gifts were ordinary and necessary business expenses of the petitioner, Eugene R. Studenski.

B. The unreimbursed expense for attendance at professional meetings, conventions, and conferences were ordinary and necessary expenses of the petitioner. Paul K. Goldberg, et al. State Tax Commission, Sept. 23, 1971.

C. The deficiencies are redetermined and are modified by the allowance of the above expenses. In all other respects, the deficiencies are sustained.

DATED: Albany, New York
March 21, 1972,

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER