

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JERZY & ISABELLE HORECKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of **Personal Income** :
Taxes under Article ~~(8)~~ 22 of the :
Tax Law for the Year ~~(xxxxxx)~~ 1972:

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 1 day of September , 1977 , ~~she~~ he served the within
Notice of Decision by (certified) mail upon Jerzy & Isabelle Horecki

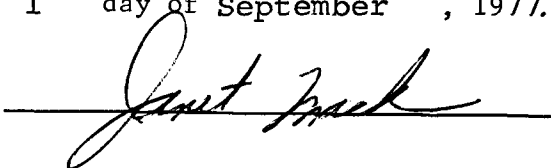
~~xxxxxx~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. & Mrs. Jerzy Horecki
75-22 172 Street
Flushing, New York 11366

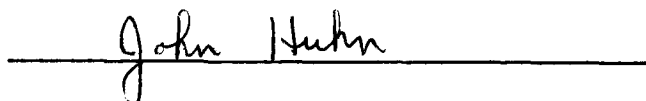
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

Sworn to before me this

1 day of September , 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JERZY & ISABELLE HORECKI

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~xxxxxx Period (s)~~ 1972 :

State of New York
County of Albany

John Huhn , 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 1 day of September , 1977 , she served the within
Notice of Decision by (certified) mail upon Albert Carmen, CPA

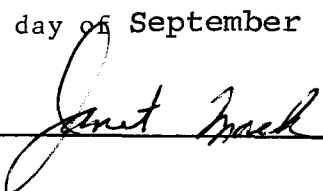
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Albert Carmen, CPA
59-25 Kissena Blvd.
Flushing, New York 11355

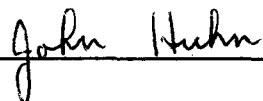
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative
of the) 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

1 day of September , 1977.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

September 1, 1977

**Mr. & Mrs. Jerzy Horecki
75-22 172 Street
Flushing, New York 11366**

Dear Mr. & Mrs. Horecki:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **690** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Joseph Chyrywaty/meg
Joseph Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
JERZY & ISABELLE HORECKI :
for Redetermination of a Deficiency or :
for Refund of Personal Income Taxes :
under Article 22 of the Tax Law for :
the Year 1972. :
:

DECISION

Petitioners, Jerzy and Isabelle Horecki, residing at 75-22 172 Street, Flushing, New York 11366, have filed a petition for redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1972 (File No. 12131).

A small claims hearing was held before Philip Mercurio, Small Claims Hearing Officer, on October 25, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared by Albert Carmen, CPA and for his wife, petitioner, Isabelle Horecki. The Income Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

ISSUE

Whether income received by the petitioner, Isabelle Horecki, while in training at a hospital during the year 1972, is includible in petitioner's gross income.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Petitioners, Jerzy and Isabelle Horecki, timely filed a New York State resident income tax return for the year 1972. Claimed therein was a deduction of \$3,600.00 as a fellowship grant by petitioner, Isabelle Horecki.

2. On May 19, 1973, the Income Tax Bureau issued a Notice of Deficiency against the petitioners, Jerzy and Isabelle Horecki, imposing additional personal income tax based upon the disallowance of \$3,600.00 shown as an education expense.

3. Petitioner, Isabelle Horecki, during the year 1972, was a resident physician at the Dunlap-Manhattan Psychiatric Hospital. She remained there in training to acquire skills and experience in the field of psychiatry and to become a licensed physician by the State of New York.

4. Petitioner, Isabelle Horecki's residency training at the Dunlap-Manhattan Psychiatric Hospital, included making daily unit rounds, follow-up of selected discharged patients in the aftercare intensive psychotherapy with at least one patient at the Bellevue or Horney Clinic, attending classes, lectures, departmental conferences, and close and continuing supervision of all phases of her work by her superiors.

5. Petitioner, Isabelle Horecki's, compensation appears to be the usual amount paid to a resident at hospitals in this and various other areas. She received a withholding statement showing her compensation as wages, and deductions for Federal and state withholding taxes and social security taxes.

6. That the amount of \$3,600.00 which petitioner, Isabelle Horecki, claimed as fellowship grant represented compensation from her employer for services rendered as a resident physician during the year 1972 within the meaning and intent of section 117 of the Internal Revenue Code. Said amount was includible in petitioner's gross income for the year 1972 and it did not constitute a scholarship or a fellowship grant within the meaning and intent of section 117 of the Internal Revenue Code, nor did it constitute an educational expense within the meaning and intent of sections 162 or 212 of the Internal Revenue Code.


7. That the petition of Jerzy and Isabelle Horecki is denied and the Notice of Deficiency issued on May 19, 1975 in the sum of \$473.94 is sustained together with such additional interest as may be lawfully owing.

DATED: Albany, New York

September 1, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER