

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
HELEN CAPRIGLIONE

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) 1965

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

State of New York
County of Albany

Rae Zimmerman , 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 4th day of April , 1972, she served the within
Notice of Decision (or Determination) by (certified) mail upon
Helen Capriglione

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows:

Helen Capriglione
1348 78th Street
Brooklyn, New York

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

4th day of April , 1972.

Martha Furrow

Rae Zimmerman



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

DATED: Albany, New York
April 4, 1972

Helen Capriglione
1348 78th Street
Brooklyn, New York

Dear Madam:

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

Please take further notice that pursuant to section(s) **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 relating hereto may be
addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright

Hearing Officer

cc Petitioner's Representative
Law Bureau

STATE TAX COMMISSION

Helen Capriglione filed a petition pursuant to section 689 of the Tax Law for a redetermination of a deficiency of personal income tax imposed by Article 22 of the Tax Law for the year 1965. A hearing was duly held before Nigel G. Wright, Hearing Officer, on October 20, 1970, at the offices of the State Tax Commission, 80 Centre Street, New York, New York. The petitioner appeared in person and without a representative and the Income Tax Bureau appeared by Edward H. Best, Esq. (Francis X. Boylan, Esq., of Counsel).

The issue in this case is the degree of proof necessary to substantiate deductions taken for medical expenses including wages paid to a practical nurse for the care of petitioner's mother.

FINDINGS OF FACT

1. Petitioner filed a 1965 tax return showing medical expenses of \$3,735.00. A schedule attached to her Federal return showed that part of this consisted of \$3,380.00 paid to a nurse at the rate of \$65.00 a week for 52 weeks, \$165.00 for drugs and \$190.00 for doctors.

2. The deficiency notice allows \$235.00 for medical expenses consisting of \$175.00 for drugs and \$60.00 for amounts paid to Dr.'s Cacioppo and Ornstein and disallows \$3,500.00. It computes a tax on the basis of a standard deduction.

3. A receipt for \$60.00 paid to a Dr. Sica was produced at the hearing. No evidence was produced to show payments to a Dr. Alexander or to J. H. Penny allegedly of \$35.00 each.

4. Petitioner testified that she needed a nurse during 1965 to take care of her mother who had suffered a paralytic cerebral stroke and who was then 76 years old. The mother died in 1967. A signed statement from a Dr. Alexander stated that he had prescribed such a nurse. A signed statement by a priest who made monthly calls on the mother stated that he observed a nurse in attendance. The nurse was paid in cash every week and petitioner has no records of such payments. Petitioner can not now remember the last name of the nurse nor locate her.

CONCLUSIONS OF LAW

A. The proof offered is sufficient to substantiate the wages paid to the nurse of \$3,380.00 and \$60.00 paid to Dr. Sica. The alleged payments of \$70.00 to other doctors is not substantiated.

DECISION

The petition is granted and the deficiency is recomputed to be \$3.60 with interest to the date of the deficiency of \$.33 and with such further interest, if any, as may be due pursuant to section 684 of the Tax Law.

DATED: Albany, New York

April 4, 1972

STATE TAX COMMISSION

Norman Gallman
COMMISSIONER

Bruce Mulvey
COMMISSIONER

Milton Krum
COMMISSIONER