

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

IRENE KRIEGER

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article~~(ss)~~ 22 of the  
Tax Law for the (Year~~(s)~~ 1967.

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

State of New York  
County of Albany

Martha Funaro, 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 7th day of November, 1973, she served the within  
Notice of Decision (or Determination) by (certified) mail upon Irene Krieger  
(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

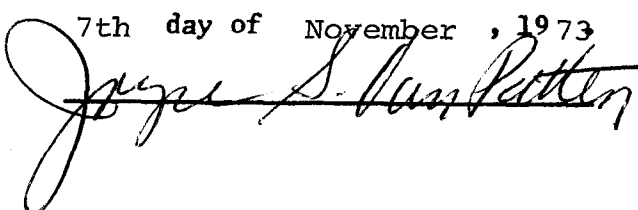

Mrs. Irene Krieger  
140-15 Dekruif Place  
Bronx, New York 10475

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

7th day of November, 1973



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  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION  
Mario A. Procaccino  
~~NORMAN F. GAYMAN, JR., PRESIDENT~~  
A. BRUCE MANLEY  
MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York  
November 7, 1973

Mrs. Irene Krieger  
140-15 Dekruif Place  
Bronx, New York 10475

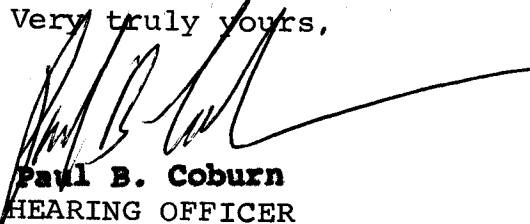
Dear Mrs. Krieger:

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

Please take further notice that pursuant to  
Section ~~(a)~~ **690** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from 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 relative  
hereto may be addressed to the undersigned.  
These will be referred to the proper party for  
reply.

Very truly yours,

  
**Paul B. Coburn**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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|--|---|----------|
| In the Matter of the Petition            | : |          |
| of                                       | : |          |
| IRENE KRIEGER                            | : |          |
|  | : | DECISION |
| for Redetermination of Deficiency or for | : |          |
| Refund of Personal Income Tax under      | : |          |
| Article 22 of the Tax Law for the Year   | : |          |
| 1967.                                    | : |          |
|  | : |          |

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Petitioner, Irene Krieger, has filed a petition for redetermination of deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1967. (File No. 76706798). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on December 14, 1972, at 2:45 P.M. Petitioner appeared pro se. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Were periodic payments received by petitioner, Irene Krieger, during the year 1967 from her estranged husband for the support and maintenance of herself and their minor children subject to New York State personal income tax?

FINDINGS OF FACT

1. Petitioner, Irene Krieger, filed a New York State income tax resident return for the year 1967. She did not include in total New York income \$2,040.00 received periodically from her estranged

husband during said year pursuant to a Family Court order.

2. On September 28, 1970, the Income Tax Bureau issued a Statement of Audit Changes against petitioner, Irene Krieger, imposing additional personal income tax due for the year 1967 in the sum of \$64.02 upon the grounds that the payments received from her estranged husband were considered taxable income to her. In accordance with the aforesaid Statement of Audit Changes, it issued a Notice of Deficiency in the sum of \$71.10.

3. On September 2, 1965, the Family Court of the City of New York, County of Kings in a proceeding entitled, "Irene Krieger, Petitioner Against Arnold Krieger, Respondent," issued an order requiring respondent, Arnold Krieger, to pay "\$170.00 per month for petitioner and two children beginning 9/10/65". This order was in effect during the year 1967. Pursuant to said order Arnold Krieger paid the sum of \$2,040.00 in periodic payments to petitioner, Irene Krieger, during the year 1967.

#### CONCLUSIONS OF LAW

A. That periodic payments were received by petitioner, Irene Krieger, during the year 1967 from her estranged husband for the support and maintenance of herself and of their minor children without a specific designation in the Family Court order as to the portion for the support of the children and therefore the whole of such amounts were includible in her income in accordance with the meaning and intent of section 71 of the Internal Revenue Code. (5 Mertens,

Law of Federal Income Taxation § 31A.06).

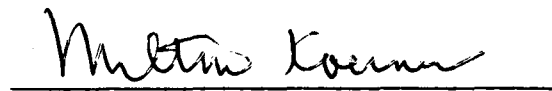
B. That the petition of Irene Krieger is denied and the Notice of Deficiency issued September 28, 1970, is sustained.

DATED: Albany, New York  
November 7, 1973

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER