

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DIXON M. MOODY and
LUCINDA B. MOODY

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

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(3)~~ 22 of the
Tax Law for the Year ~~(3)~~ 1971.

State of New York
County of Albany

JANET MACK, 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 18th day of December, 1975, she served the within Notice of Decision ~~XXXXXX~~ by (certified) mail upon DIXON M. MOODY and LUCINDA B. MOODY ~~XXXXXX~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. and Mrs. Dixon M. Moody
1008 Jefferson N.E.
Albuquerque, New Mexico 87110

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 ~~XXXXXX~~ ~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the last known address of the ~~XXXXXX~~ ~~XXXXXX~~ petitioner.

Sworn to before me this

18th day of December, 1975.

Mary Hoff

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DIXON M. MOODY and
LUCINDA B. MOODY

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

For a Redetermination of a Deficiency or
a Refund of Personal Income
Taxes under Article ~~(§)~~ 22 of the
Tax Law for the Year ~~(§)~~ 1971.

State of New York
County of Albany

JANET MACK, 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 18th day of December, 1975, she served the within Notice of Decision ~~FOR REVENUE PURPOSES~~ by (certified) mail upon HERMAN C. RAUCH, JR., C.P.A. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Herman C. Rauch, Jr., C.P.A.
1008 Jefferson N.E.
Albuquerque, New Mexico 87110

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

18th day of December, 1975

Mary Druff

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION
HEARING UNIT

PAUL GREENBERG
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT
MR. COBURN
MR. LEISNER

~~XXXXXXXX~~
(518) 457-3850

DATED: Albany, New York
December 18, 1975

Mr. and Mrs. Dixon M. Moody
1008 Jefferson N.W.
Albuquerque, New Mexico 87110

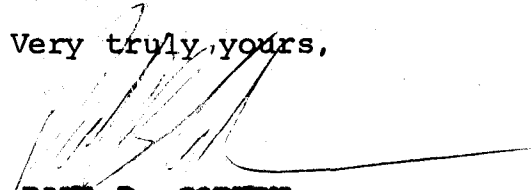
Dear Mr. and Mrs. Moody:

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

Please take further notice that pursuant to
Section ~~601~~ **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

2. A Notice of Determination of deficiencies in personal income tax for the year 1971 was issued on October 29, 1973, against the taxpayers under File No. 1-89114907.

3. The taxpayers petitioned for redetermination of the deficiencies.

4. Petitioner, Dixon M. Moody, a licensed medical doctor, was employed by the Radiology Department of the New York Hospital-Cornell Medical Center from January 1, 1971 to July 31, 1971. His status during said period was that of a Special Fellow in Neuroradiology. This was a training position to prepare him for a career as a teacher-investigator in neuroradiology. During said period he received total compensation of \$10,500.00, \$7,000.00 of which constituted a fellowship.

5. During the first three months of the seven spent at the New York Hospital, petitioner, Dixon M. Moody, was not involved in patient services. During the remaining time, he was taught the practical procedures of neuroradiology. The films were reviewed and reported by attending staff members. At all times, he was regarded as a trainee and his activities were under the closest supervision.

CONCLUSIONS OF LAW

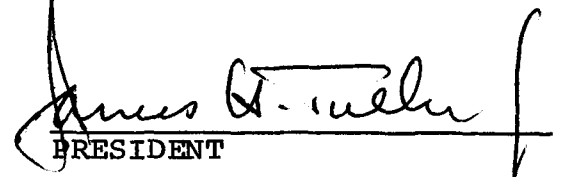
A. The stipends were received by petitioner, Dixon M. Moody, primarily to further his education. There was no requirement that

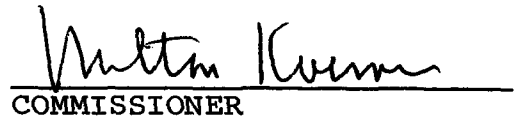
he perform present or future services for the grantor. Therefore, the stipends received in the form of a fellowship grant from the National Institutes of Health were properly excluded from his gross income for the year 1971. F.A. Bieberdorf, 60 T.C. 114; G.L. Bailey, 60 T.C. No. 48.

B. The taxpayers' petition is sustained. It is determined that there are no deficiencies against petitioners in either income tax or unincorporated business tax for the year 1971.

DATED: Albany, New York
December 15, 1975

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER

COMMISSIONER