

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PHILIP and MARJORIE CRAMER

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 ~~(s)~~ ~~or 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 24th day of January, 1979, ~~she~~ served the within

Notice of Decision by (certified) mail upon Philip and Marjorie Cramer

~~XXXXXXXXXXXXXXXXXXXX~~ the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Philip and Marjorie Cramer
606 East 3rd Street
Brooklyn, New York 11218

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

Sworn to before me this

24th day of January, 1979.

Marilyn J. Papineau

John Huhn

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
PHILIP and MARJORIE CRAMER : DECISION
for Redetermination of a Deficiency or for :
Refund of Personal Income Tax under Article :
22 of the Tax Law for the Year 1972. :

Petitioners, Philip and Marjorie Cramer, 606 East 3rd Street Brooklyn, New York 11218, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972 (File No. 11977).

A small claims hearing was held before Robert F. Mulligan, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on Friday, January 13, 1978 at 1:15 P.M. Petitioners appeared pro se. The Income Tax Bureau appeared by Peter Crotty, Esq. (Samuel Freund, Esq., of counsel).

ISSUE

Whether any portion of the amounts received by petitioner Marjorie Cramer during 1972, while a resident physician, was excludable from her gross income as a fellowship grant.

FINDINGS OF FACT

1. On May 14, 1974, petitioners, Philip and Marjorie Cramer, filed a joint New York State income tax resident return for the calendar year 1972, on which they excluded from their adjusted gross income the sum of \$1,800.00, which was claimed as a fellowship exclusion.

2. On October 25, 1974, the Income Tax Bureau issued a Statement of Audit Changes to petitioners, on the grounds that the stipends received by petitioner Marjorie Cramer, as a resident physician, constituted compensation for services rendered and were not excludable from income. Pursuant to the aforesaid Statement, a Notice of Deficiency was issued on May 19, 1975 in the amount of \$129.11, plus interest of \$3.94, less a refund of \$104.00 which was claimed on petitioners' return.

3. Prior to the years at issue, petitioner Marjorie Cramer received her Doctor of Medicine degree from the State University of New York, Downstate Medical Center, interned at Downstate Medical Center (Kings County Hospital), was licensed to practice medicine and spent two years in residency in general surgery at Downstate.

4. From January 1 through June 30, 1972 (during Dr. Cramer's third year of residency), she was in training as a plastic surgeon and served as an Assistant Instructor assigned to Downstate's experimental laboratory. However, she did not teach or

assist in teaching during this period. Her duties consisted of laboratory and library research performed under the auspices of the plastic surgery division of the Department of Surgery. During this period, Dr. Cramer co-authored an article based, in part, on her research, which appeared in the medical journal "Plastic and Reconstructive Surgery."

5. Research work performed by Dr. Cramer during the aforementioned period was beneficial to her in her development as a plastic surgeon.

6. During 1972, Dr. Cramer was paid \$15,094.76 by the New York City Health and Hospitals Corporation. Federal, State and City income taxes were withheld from said amount. No social security taxes were withheld. Petitioners contend that Dr. Cramer was entitled to a fellowship exclusion of \$300.00 per month for the period January 1 through June 30, 1972, i.e., the sum of \$1,800.00, the amount which was excluded from income on petitioners' return.

CONCLUSIONS OF LAW

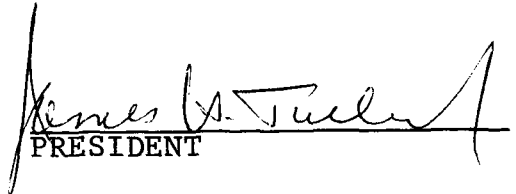
A. That petitioners, Philip and Marjorie Cramer, have not sustained the burden of proof required (under section 689(e) of the Tax Law) to show that the amounts received by petitioner Marjorie Cramer during the period January 1 through June 30, 1972 did not represent amounts paid as compensation for her services or that they were not primarily for the benefit of Downstate

Medical Center, Kings County Hospital, or the City of New York Health and Hospitals Corporation, within the meaning of Treas. Reg. section 1.117-4(c). Accordingly, no part of the payments made to said petitioner is to be considered an amount received as a scholarship or fellowship grant for purposes of section 117 of the Internal Revenue Code.

B. That the petition of Philip and Marjorie Cramer is denied and the Notice of Deficiency issued May 19, 1975 is sustained, together with such additional interest as may be lawfully owing.

DATED: Albany, New York
January 24, 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

TO Miss Davis, REMAILED: 2/16/79

Please file. Returned unclaimed and
remailed regular mail.

2/16/79

Joseph Chyrywaty

M-75 (5/76)

TA-26 (4-76) 25M

STATE OF NEW YORK

Department of Taxation and Finance

TAX APPEALS BUREAU

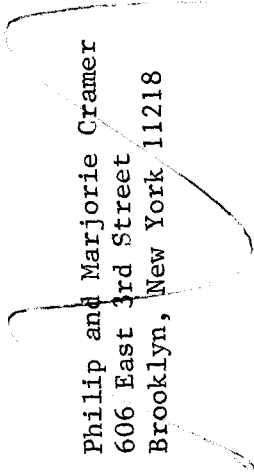
STATE CAMPUS

ALBANY, N. Y. 12227



UNCLAIMED

Philip and Marjorie Cramer
606 East 3rd Street
Brooklyn, New York 11218



Name
1st Notice 1-27
2nd Notice 1-27
Return

FEB 1 1977

In the Matter of the Petition

of

PHILIP and MARJORIE CRAMER

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(6)~~ 22 of the :
Tax Law for the Year ~~(s) xxx 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 16th day of February , 1979 , ~~she~~ served the within
Notice of Decision by ~~(certified)~~ mail upon Philip and Marjorie
Cramer ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Philip and Marjorie Cramer
606 East 3rd Street
Brooklyn, NY 11218

and by depositing same enclosed in a postpaid properly addressed wrapper in a
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the United States Postal Service within the State of New York.

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~~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

16th day of February , 1979.

Marilyn J. Papineau

John Huhn