

POOR  
QUALITY  
THE FOLLOWING  
DOCUMENT (S)  
ARE  
FADED & BLURRED

PHOTO MICROGRAPHICS INC.

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ROBERT C. & MARGARET V. MCINTYRE

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 (s) 22 of the  
Tax Law for the Year (s) 1966

State of New York  
County of Albany

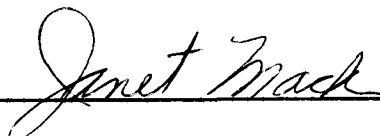
Janet Mack , being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 9th day of October , 1974 , she served the within Notice of Decision (or Determination) by (certified) mail upon Robert C. McIntyre and Margaret V. McIntyre (~~representative of~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Robert C. McIntyre  
7 Hawthorne Road  
Bronxville, New York 10708

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~~) (~~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

9th day of October , 1974 .



STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ROBERT C. & MARGARET V. MCINTYRE

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 ~~(2)~~ 22 of the  
Tax Law for the Year~~s~~ 1966

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 9th day of October , 1974 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Harry Frank

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

Mr. Harry Frank  
150 Broadway  
New York, New York 10038

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

9th day of October , 1974.

Martha J. Jans

Janet Mack



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 P. STELLMAN~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

~~DATE:~~ Albany, New York

**October 9, 1974**

**Mr. & Mrs. Robert C. McIntyre**  
**7 Hawthorne Road**  
**Bronxville, New York 10708**

**Dear Mr. & Mrs. McIntyre:**

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 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,

**Nigel G. Wright**  
HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

---

In the Matter of the Petition	:	
of	:	
ROBERT C. McINTYRE and	:	DECISION
MARGARET V. McINTYRE	:	
	:	
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for the	:	
Year 1966.	:	

---

Petitioners, Robert C. McIntyre and Margaret V. McIntyre, have filed a petition for a redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1966. (File No. 56864078).

A formal hearing was held before Nigel G. Wright, Hearing Officer, at the offices of the State Tax Commission, 2 World Trade Center, New York, New York, on Friday, May 24, 1974, at 10:00 A.M. Petitioners appeared by Harry Frank, with the permission of the State Tax Commission. The Income Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq., of counsel).

ISSUES

I. Did petitioners, Robert C. McIntyre and Margaret V. McIntyre, substantiate their claim of entertainment expenses for the year 1966?

II. Did the cost of sending petitioners' son to Anderson School qualify as a medical expense?

FINDINGS OF FACT

1. Petitioners, Robert C. McIntyre and Margaret V. McIntyre, timely filed a New York State income tax return for the year 1966. On the return they claimed as deductions entertainment expenses in the amount of \$624.00 and medical expenses in the amount of \$2,200.00, which was the cost of sending their son to a special school.

2. On October 28, 1968, the Income Tax Bureau issued a Statement of Audit Changes against petitioners, Robert C. McIntyre and Margaret V. McIntyre, disallowing the entertainment expenses for lack of proper substantiation and the cost of the special school for failure to qualify as a medical expense. In accordance with the aforesaid Statement, it issued a Notice of Deficiency in the sum of \$584.14.

3. Petitioners, Robert C. McIntyre and Margaret V. McIntyre, submitted no proof to substantiate their claim of entertainment expenses in the amount of \$624.00.

4. Petitioners, Robert C. McIntyre and Margaret V. McIntyre, placed their son under the psychiatric care of Elvira M. Carota, M.D. from July 18, 1966 to September 26, 1966. It was her opinion that a school program in a therapeutic milieu such as was offered at the Anderson School at Staatsburg-on-Hudson in New York was indicated and would be beneficial in working out his emotional problems. The son was referred to the school by Dr. Carota and was accepted.

5. The Anderson School provides for junior and senior high school students of average and superior intelligence showing mild personality problems, a school setting where modern educational, personal, and guidance methods in the way of a well-rounded study and treatment, adjustment and development of the student's total personality can be carried on.

CONCLUSIONS OF LAW

A. That petitioners, Robert C. McIntyre and Margaret V. McIntyre, failed to substantiate their claim of entertainment expenses in the amount of \$624.00, and, therefore, such claim must be disallowed.

B. That section 213 of the Internal Revenue Code provides that expenses paid for medical care of a taxpayer, his spouse, or a dependent shall be allowed as a deduction. That the Income Tax Regulations (sec. 1.213-1(e)(v)) provide that while ordinary education is not medical care, the cost of medical care includes the cost of attending a special school for a mentally or physically handicapped individual, if his condition is such that the resources of the institution for alleviating such mental or physical handicap are a principle reason for his presence there. That, however, the Anderson School is not a "special school" within the intent of the regulations. That, therefore, the expense in the amount of \$2,200.00 incurred by petitioners, Robert C. McIntyre and Margaret V. McIntyre, in sending their son to the Anderson School, does not qualify as a medical expense.

C. That the petition of Robert C. McIntyre and Margaret V. McIntyre is denied, and the Notice of Deficiency issued October 28, 1968 is sustained.

DATED: Albany, New York  
October 9, 1974

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER