

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ALFRED & MERLIE WINNICK

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Personal Income :  
Taxes under Article(s) 22 of the :  
Tax Law for the Year(s) ~~xxxPeriod(s)~~ :  
1969 and 1970.

AFFIDAVIT OF MAILING

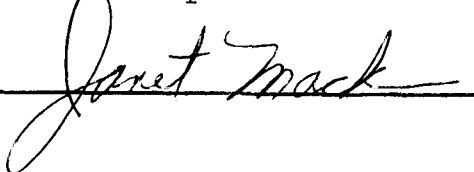
State of New York  
County of Albany

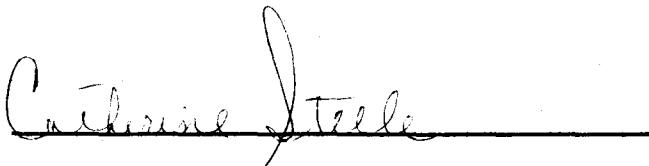
Catherine Steele, being duly sworn, deposes and says that she is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 27th day of September, 1976, she served the within Notice of Decision by (certified) mail upon Alfred & Merlie Winnick (~~representative of the~~) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. & Mrs. Alfred Winnick  
8110 N.W. 91st Terrace  
Tamarac, Florida 33321  
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 (~~representative of the~~) (~~xxxthe~~) 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

27th day of September, 1976







STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 27, 1976

TELEPHONE: (518) **457-3850**

Mr. & Mrs. Alfred Winnick  
8110 N.W. 91st Terrace  
Tamarac, Florida 33321

Dear Mr. & Mrs. Winnick:

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

Please take further notice that pursuant to  
Section **(X) 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.

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. They  
will be referred to the proper party for reply.

Very truly yours,

*Frank J. Puccia*

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

~~cc: Taxing Bureau's Representative:~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
of	:	
ALFRED & MERLIE WINNICK	:	DECISION
for a Redetermination of a Deficiency	:	
or for Refund of Personal Income Taxes	:	
under Article 22 of the Tax Law for	:	
the Years 1969 and 1970.	:	

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Petitioners, Alfred and Merlie Winnick, 8110 N.W. 91st Terrace, Tamarac, Florida 33321, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the years 1969 and 1970. (File No. 0-58953352 and File No. 9-38613983). On April 2, 1976, petitioners advised the State Tax Commission in writing that they desired to waive a small claims hearing and to submit the case to the State Tax Commission upon the entire record contained in the file.

ISSUE

Whether or not tuition expense for a private school is a proper deductible medical expense for a dependent son who is handicapped through loss of hearing.

FINDINGS OF FACT

1. Petitioners, Alfred and Merlie Winnick, timely filed 1969 and 1970 returns in which they claimed a medical deduction for tuition expense in a private school for their dependent son who was handicapped by a progressive loss of hearing. The Income Tax Bureau held that the tuition expense was personal in nature and that it was not a proper medical deduction.

2. The school attended was Boro Hall Academy in Brooklyn. It holds itself out through advertisement to be a fully accredited co-educational school having three programs: remedial for slow learners, regular for average and accelerated for rapid learners. The school had no specialized facilities to alleviate deafness or the loss of hearing. The school had no deafness related courses such as lip reading or hearing exercise.

3. The petitioners' son was sent to the school on advice of a physician because the boy was not doing well in public school.

CONCLUSIONS OF LAW

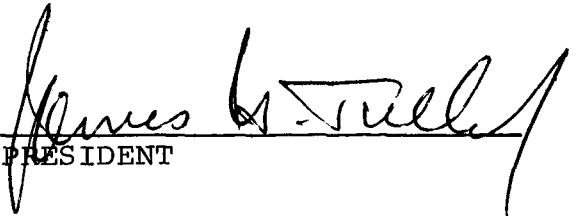
A. That the purpose in sending the child to Boro Hall Academy was primarily for educational purposes rather than treatment or alleviation of a handicap.


B. That the school was an educational institution with no deafness related instruction or treatment, and therefore not a special school as required by section 213 of the Internal Revenue Code.

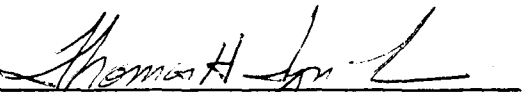
C. That the petition of Alfred and Merlie Winnick is denied  
and the notices of deficiency are sustained.

DATED: Albany, New York  
September 27, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER