

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RAE TERKLETAUB

DECISION

:
for Revision of a Determination or for Refund
of Sales and Use Taxes under Articles 28 and 29 :
of the Tax Law for the period ended
May 30, 1979.

Petitioner, Rae Terkletaub, 2940 Ocean Parkway, Apt. 19-0, Brooklyn, New York 11235, filed a petition for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period ended May 30, 1979 (File No. 55034).

A hearing was held before Jean Corigliano, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 8, 1986 at 4:00 P.M. Petitioner appeared pro se. The Audit Division appeared by John P. Dugan, Esq. (Michael Glannon, Esq., of counsel).

ISSUE

Whether the Audit Division properly denied petitioner's application for a refund of sales tax paid.

FINDINGS OF FACT

1. On or about September 28, 1982, petitioner, Rae Terkletaub, filed an Application for Credit or Refund of State and Local Sales and Use Tax in the amount of \$30.00.

2. On May 30, 1984, the Audit Division denied \$14.00 of petitioner's claim on the basis that the application was not filed within three years after the date the tax was paid.

3. The \$14.00 at issue represents sales tax paid by petitioner to Brighton Beach Baths, Inc. for the rental of a bath cabana. Petitioner paid the tax on April 6, 1979.

CONCLUSION OF LAW

A. That pursuant to Tax Law § 1139(a)(1) in the case of tax paid to a person required to collect tax an application for a refund of tax paid must be made within three years after the date when the tax was payable by such person to the State.


B. That Brighton Beach Bath, Inc. was required to pay the tax collected from petitioner to New York State by June 20, 1979 (Tax Law §§ 1136151 and 1137[a]). Accordingly, petitioner's application for a refund was made more than three years after the sales tax of \$14.00 was payable to the State.

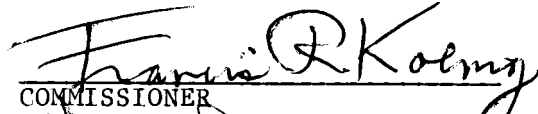
C. That the petition of ~~Rae~~ Terkletaub ~~is~~ denied, and the denial of petitioner's Application for Credit or Refund of State and Local Sales and Use Taxes ~~is~~ sustained.

DATED: Albany, New York

STATE TAX COMMISSION

JAN 16 1987


PRESIDENT


COMMISSIONER


COMMISSIONER