

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

M.S.S. ECONOMY OIL CORPORATION

For ~~a Determination of a Deficiency or~~  
a Revision ~~of a Determination~~ or a Refund  
of Motor Fuel  
Taxes under Article ~~(s)~~ 12A of the  
Tax Law for ~~the Year(s) or Period(s)~~  
January 1975.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 7th day of March, 1977, ~~he~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon M.S.S. Economy Oil  
Corporation (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:  
M.S.S. Economy Oil Corporation  
46 Atlantic Avenue  
Lynbrook, New York 11563  
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~~  
~~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

7th day of March, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

M.S.S. ECONOMY OIL CORPORATION

For a ~~Redetermination of a Deficiency~~ or  
a Revision ~~of a Determination~~ or a Refund  
of Motor Fuel  
Taxes under Article (s) 12A of the  
Tax Law for ~~the year(s) or period(s)~~  
January 1975.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that  
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 7th day of March, 1977, ~~he~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon Charles Baxter

(representative of) the petitioner in the within proceeding,

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

Mr. Charles Baxter  
50 North Bergen Place  
Freeport, New York

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) 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

7th day of March, 1977.

Bruce Batchelor

Janet Brack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

March 7, 1977

TELEPHONE: (518) **457-1723**

**M.S.S. Economy Oil Corporation**  
**46 Atlantic Avenue**  
**Lynbrook, New York 11563**

**Gentlemen:**

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

Please take further notice that pursuant to  
Section **(a) 288** 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,

**Paul B. Coburn**  
**Supervising Tax**  
**Hearing Officer**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Application :  
of :  
M.S.S. ECONOMY OIL CORPORATION : DETERMINATION  
for Revision or for Refund of Motor :  
Fuel Taxes under Article 12A of the :  
Tax Law for January 1975. :

Applicant, M.S.S. Economy Oil Corporation, 46 Atlantic Avenue, Lynbrook, New York 11563, filed an application for revision or for refund of motor fuel taxes under Article 12A of the Tax Law for January 1975. (File No. 00607).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 14, 1976 at 2:45 P.M. Applicant appeared by Charles Baxter. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Arnold Dorman, Esq., of counsel).

Whether a return of tax on motor fuels was timely filed and, if not timely filed, whether the delay in filing was excusable.

FINDINGS OF FACT

1. Applicant, M.S.S. Economy Oil Corporation, a wholesale petroleum distributor, prepared its January 1975 Return of Tax on Motor Fuels and had it certified on February 28, 1975. It was mailed, and the envelope bore a postmark for February 28, 1975. The return was received and stamped by the mailroom of the Department of Taxation and Finance on March 3, 1975.

2. On March 10, 1975, the Miscellaneous Tax Bureau issued a Notice of Penalty Due Under Motor Fuel Tax Law for the month of January 1975 against the applicant, M.S.S. Economy Oil Corporation, in the amount of \$8,618.31.

3. Applicant, M.S.S. Economy Oil Corporation, for the month of January 1975, owed as per its return \$172,366.26. Applicant's bank accounts indicated a closing balance on January 31, 1975 of \$613,773.28 at the Peninsula National Bank, \$93,571.03 at Bankers Trust Company and \$87,465.23 at People's Trust of New Jersey, for a total of \$794,809.54.

4. No documentary or other evidence was presented that returns of tax on motor fuel for any other period were not timely filed by applicant, M.S.S. Economy Oil Corporation.

CONCLUSIONS OF LAW

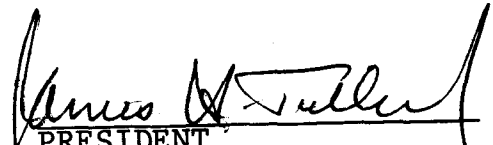
A. That pursuant to section 287 of the Tax Law and 20 NYCRR 410.2, every distributor of motor fuel must file with the

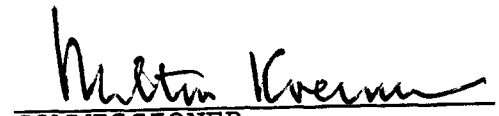
Miscellaneous Tax Bureau a return of tax on motor fuel, not later than the last day of the month following that for which the return is made. Therefore, pursuant to the aforesaid section and regulation, applicant, M.S.S. Economy Oil Corporation, has failed to timely file its return of motor fuel.

B. That, however, pursuant to section 289(b) of the Tax Law, because of excusable delay and the lack of any prior violations, the Notice of Penalty issued March 10, 1975 is cancelled.

DATED: Albany, New York  
March 7, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER