

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DERRICO COMPANY, INC.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~(CERTIFIED)~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Highway Use
Taxes under Article ~~(s)~~ 21 of the
Tax Law for the ~~Year(s)~~ Period
January 1, 1969 through December 31, 1970.

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 20th day of March, 1975, she served the within
Notice of Decision ~~(or Determination)~~ by ~~(certified)~~ mail upon Derrico Company, Inc.
c/o Ronald Accomando ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Derrico Company, Inc.
c/o Mr. Ronald Accomando
907 East 141st Street
Bronx, New York 10454
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)~~
~~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

20th day of March, 1975.

Katherine H. Manly

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION
Saul Heckelman, Acting President
~~XXXXXXXXXXXXXXXXXXXX~~

A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214-A
STATE CAMPUS
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655
MR. LEISNER 457-2657
MR. COBURN 457-2896

DATED: Albany, New York
March 20, 1975

Derrico Company, Inc.
c/o Mr. Ronald Accomando
907 East 141st Street
Bronx, New York 10454

Gentlemen:

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

Please take further notice that pursuant to
Section (S) *** 510** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **30 days**
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: ~~XXXXXXXXXXXXXXXXXXXX~~
Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

| | | |
|--|---|----------|
| In the Matter of the Application | : | |
| of | : | |
| DERRICO COMPANY, INC. | : | DECISION |
| for a hearing to review a determination of | : | |
| Highway Use Taxes due under Article 21 of | : | |
| the Tax Law for the period January 1, 1969 | : | |
| through December 31, 1970. | : | |

Derrico Company, Inc. filed an application under section 510 of the Tax Law for a hearing to review a determination of tax due under Article 21 of the Tax Law for the period January 1, 1969 through December 31, 1970.

The determinations under review are (1) an assessment issued on September 8, 1971, bearing number B 92688 for truck mileage tax in the amount of \$5,864.00 plus penalty and interest of \$1,334.42 for a total of \$7,198.42, and (2) an assessment also issued on September 8, 1971, bearing number E-2928 for fuel use taxes in the amount of \$5,399.73 plus penalty and interest of \$1,042.79 for a total of \$6,442.52.

A hearing was duly held on October 24, 1974, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Nigel G. Wright, Hearing Officer.

The applicant appeared by one of its officers, Ronald Accomando. The Miscellaneous Tax Bureau was represented by Saul Heckelman, Esq., appearing by Alexander Weiss, Esq.

The record of said hearing has been duly examined and considered.

ISSUE

The issue in this case is whether the application for a hearing was timely filed under section 510 of the Tax Law.

FINDINGS OF FACT

1. Applicant operates a refuse collection business from its place of business at 907 East 141st Street, Bronx, New York. It operates in both New York and New Jersey.

2. Applicant was audited by the Miscellaneous Tax Bureau. The assessments under review were issued.

3. Applicant first protested these assessments on October 26, 1971. The basis of his protest is that he feels that the auditor did not finish his audit and used instead an improper projection method. On March 13, 1972, applicant explicitly requested a hearing on the assessments.

CONCLUSIONS OF LAW

The application for a hearing was made at the earliest on October 26, 1971, more than 30 days after the assessments were issued. Said application is not valid under section 510 of the Tax Law.

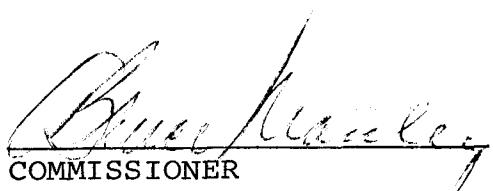
The determinations under review are final and conclusive.

DATED: Albany, New York

STATE TAX COMMISSION

March 20, 1975

PRESIDENT



COMMISSIONER



COMMISSIONER