

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

REX BUS COMPANY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Highway Use :
Taxes under Article (x) 21 of the :
Tax Law for the ~~Year(s)~~ or Period (x) :
July 1, 1970 to March 31, 1974.

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 Decision by ~~(certified)~~ mail upon Rex Bus Company

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

Rex Bus Company
437 Tonnele Avenue
Jersey City, New Jersey 07306

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 Mack



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**

Rex Bus Company
437 Tonnele Avenue
Jersey City, New Jersey 07306

Gentlemen:

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

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

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: ~~Perkins & Sons, Inc.~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
REX BUS COMPANY	:	DECISION
for Revision of a Determination or for	:	
Refund of Highway Use Tax under Article	:	
21 of the Tax Law for the Period July 1,	:	
1970 to March 31, 1974.	:	

Applicant, Rex Bus Company, 437 Tonnele Avenue, Jersey City, New Jersey, 07306, filed an application for revision or for refund of highway use taxes under Article 21 of the Tax Law for the period July 1, 1970 to March 31, 1974. (File No. 00339).

A formal hearing was scheduled before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York on August 24, 1976 at 2:45 P.M. On August 20, 1976, applicant's representative, Sidney Gendell, advised the State Tax Commission, in writing, that the applicant waived a formal hearing and submitted the case to the State Tax Commission upon the entire record in the file. After the due consideration of said record, the State Tax Commission renders the following decision.

ISSUE

Whether the fuel use tax applies to fuel used by buses when traveling within the confines of a terminal area owned and operated by the Port Authority of New York and New Jersey.

FINDINGS OF FACT

1. On September 17, 1974, as the result of an audit, the Miscellaneous Tax Bureau issued an Assessment of Unpaid Fuel Use Tax against applicant, Rex Bus Company, in the amount of \$1,844.46, plus interest of \$186.05, for a total of \$2,030.51. On September 23, 1974, the applicant paid the assessment of \$2,030.51 under protest.

2. Rex Bus Company is a motor-bus carrier operating its buses into New York, New York from New Jersey. At the New York end, it uses the terminal located at 111 Eighth Avenue, Manhattan. A ramp designated "For Busses Only" connects the Lincoln Tunnel with said terminal. The ramps and terminal are owned and operated by the Port Authority of New York and New Jersey.

The total round trip mileage from the center of the Lincoln Tunnel, a public highway to the terminal is 2.5 miles of which 1.65 is public highway and .85 is distance over the ramps to said terminal.

CONCLUSIONS OF LAW

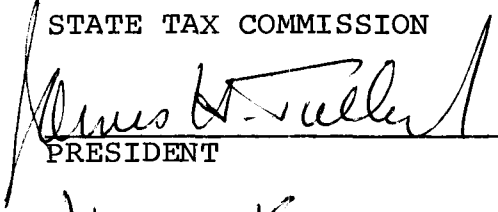
A. That applicant Rex Bus Company's use of the ramps and terminal owned and operated by the Port Authority of New York and New Jersey is not the use of a public highway according to the meaning and intent of section 501.6 of the Tax Law. Therefore, Rex Bus Company, is not subject to the fuel use tax for .85 miles (round trip) upon the ramps and terminals off the Lincoln Tunnel. Application of Suburban Transit Corporation, State Tax Commission, August 19, 1976.

B. That the application of Rex Bus Company is granted to the extent that the penalty is cancelled and the Assessment of Unpaid Fuel Use Tax is Cancelled with respect to use of .85 miles (round trip) of the

ramps and terminal of the Port Authority of New York and New Jersey;
the Miscellaneous Tax Bureau is hereby directed to accordingly modify
the Assessment of Unpaid Fuel Use Tax issued September 17, 1974; and
that except as so granted, the application is in all other respects
denied.

DATED: Albany, New York
March 7, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER