

• STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

THOMAS F. DUNPHY

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

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~(year(s))~~ Period
March 7, 1968.

State of New York
County of Albany

Martha Funaro, 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 21st day of February, 1974, she served the within
Notice of Decision (or Determination) by (certified) mail upon Thomas F.

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

Mr. Thomas F. Dunphy
2500 Lancaster Drive - Apt. 6
Richmond, California 94806

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) 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

21st day of February, 1974

James S. Van Patten
Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS

ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

STATE TAX COMMISSION

Mario A. Procaccino

~~XXXXXXXXXXXX~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York
February 21, 1974

Mr. Thomas F. Dunphy
2500 Lancaster Drive - Apt. 6
Richmond, California 94806

Dear Mr. Dunphy:

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

Please take further notice that pursuant to
Section(s) **1138 & 1250** 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.

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,

Edward Rook

~~XXXXXXXXXXXX~~

Secretary, State Tax Commission

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
THOMAS F. DUNPHY	:	DETERMINATION
for a Revision of a Determination or	:	
for Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for	:	
the Period March 7, 1968.	:	

Applicant, Thomas F. Dunphy, applied for a revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period March 7, 1968.

The taxpayer submitted the case for determination on the matter contained in the file. The Sales Tax Bureau was represented by Saul Heckelman, Esq. The case was referred to L. Robert Leisner, Hearing Officer, for review.

ISSUE

Did the taxpayer file a timely application for refund of sales tax paid?

FINDINGS OF FACT

1. The taxpayer, Thomas F. Dunphy, paid a New York State sales and use tax for the period March 7, 1968, and applied for a refund in June 1961.
2. A denial of the sales and use taxes refund claim for the tax paid on March 7, 1968, was issued in September 1971.
3. The taxpayer applied for a revision of the denial of the refund claim.
4. The taxpayer purchased a car on December 12, 1967, in California, and paid a California sales tax of \$158.10. In order

to obtain a New York registration, he paid a sales tax of \$158.10 on March 7, 1968.

In May 1971, while in contact with the sales tax office on another matter, the taxpayer raised the question of the double tax paid on the automobile purchased in California on December 12, 1967, and was told there should not be a double tax.

The taxpayer, in June 1971, filed a claim for refund of the New York sales and use tax which he had paid on March 7, 1968. When the refund claim was denied, as untimely, the taxpayer claimed that he did not know about the law earlier and that he was being penalized by the denial of the refund.

CONCLUSIONS OF LAW

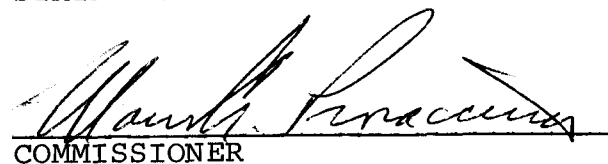
A. Here, the taxpayer's claim for a sales tax refund was made more than three years after the tax was paid and it is barred by the Sales Tax Law. (Section 1139 of the Tax Law.) The refund claim must be filed within three years of the date the sales tax was paid.

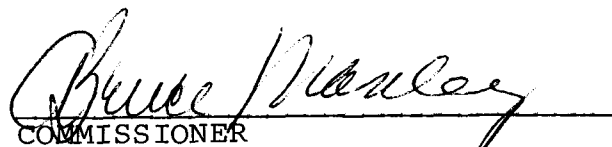
B. Ignorance of the law is no excuse for filing a late refund claim.

C. The taxpayer's claim for refund of the \$158.10 sales tax is denied in all respects.

DATED: Albany, New York
February 21, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER