

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

VECTOR CONSTRUCTION CORP.

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

For a Redetermination of a Deficiency or
a Refund of Sales & Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the (Year(s)) Period August: 1, 1965
through May 31, 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 22nd day of November , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Vector Construction
Corp.- Richard Anderson, Pres. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Vector Construction Corp.
P.O. Box 1234
Syracuse, New York 13201
Attention Richard Anderson, President
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

22nd day of November , 1972.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

VECTOR CONSTRUCTION CORP.

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Taxes under Article(s) 28 & 29 of the
Tax Law for the (Year(s)) Period August:1, 1965
through May 31, 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 22nd day of November , 1972 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Richard Priest, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Richard Priest, Esq.
c/o Priest & Schultz
Suite 502, 499 South Warren Street
Syracuse, 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 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

22nd day of November , 1972.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK

SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

November 22, 1972

Vector Construction Corp.

P.O. Box 1234

Syracuse, New York 13201

Attention Richard Anderson, President

Gentlemen:

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

Please take further notice that pursuant to **sections 1138 & 1243** of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 Months** after
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 relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

L. Robert Leisner

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
VECTOR CONSTRUCTION CORP.	:	DETERMINATION
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 August 1, 1965 through	:	
May 31, 1968.	:	

Vector Construction Corp. applied for a revision of a determination in sales and use taxes under Articles 28 and 29 of the Tax Law for the period August 1, 1965 through May 31, 1968.

A formal hearing was held at the offices of the State Tax Commission, Syracuse, New York on April 1, 1971, before L. Robert Leisner, Hearing Officer. The taxpayer was represented by Richard A. Anderson, President, and the Income Tax Bureau was represented by Edward H. Best, Esq. (Alexander Weiss, Esq., of Counsel).

ISSUE

The parties stipulated that the only issue to be decided was if the materials purchased for the three highway bridge work contracts with the State of New York were tax exempt as maintenance and repair contracts or were they taxable as capital improvements contracts.

FINDINGS OF FACT

1. A Notice of Determination of sales and use taxes for the period August 1, 1965 through May 31, 1968 was issued on March 7, 1969, against Vector Construction Corp. under Notice No. 90,758,360.

2. The taxpayer applied for a revision of the determination.

3. The taxpayer entered into three contracts under which the taxpayer chipped down the approximately four inches of concrete on the bridges and put down approximately four inches of new concrete on the bridges. On one bridge the taxpayer did some gunite work on the piers.

4. Two of the bridges had reinforced concrete slabs with wire mesh installed. The third bridge had an epoxy compound and a concrete overlay.

5. The Esperance Bridge #67-73 contract was for about \$160,000.00. This bridge crossed railroad tracks and was about 500 feet long. The bridge #RC 66-155 contract was for about \$155,000.00 and this bridge crossed railroad tracks and was about 550 feet long. Besides the new concrete installed on the bridge, some drains were installed, railings painted and repaired, and approach work was done. The value of repair work or the value of such repair items was not established.

CONCLUSIONS OF LAW

A. The value of the repair work or the value of the materials used for the repair work was not established.

B. At the hearing, the only contention made was that where the contract was with New York State, the purchase of materials for repairs should be exempt from the sales tax. No contention was made nor would it be upheld that solely because the contract was with New York State the purchases for the capital improvements should be tax exempt.


C. The contracts were for capital improvements and the materials purchased and used on these contracts were subject to sales tax.

Alexander Manufacturing Co. 9 B.T.A. 347.

D. The determination is sustained. The application for revision or for refund is denied.

DATED: Albany, New York
November 22, 1972

STATE TAX COMMISSION



COMMISSIONER



COMMISSIONER



COMMISSIONER