

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition

of

WEST SIDE NEON SIGN CORP.

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) Oct. 30, 1968

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

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 23rd day of February , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon West Side Neon  
Sign Corp. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: West Side Neon Sign Corp.  
1209 Bronx River Ave.  
Bronx, New York 10472  
Attention Gustave Schlesinger, Pres.

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

23rd day of February , 1972

Linda Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS  
ALBANY, N. Y. 12227

AREA CODE 518  
457-2655, 6, 7

ADDRESS YOUR REPLY TO

Dated: Albany, New York

February 23, 1972

West Side Neon Sign Corp.  
1209 Bronx River Avenue  
Bronx, New York 10472

Attention Gustave Schlesinger, Pres.

Gentlemen:

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

Please take further notice that pursuant to section(s)  
**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 relating hereto may be  
addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

*Lawrence A. Newman*  
**Lawrence A. Newman**

Hearing Officer

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
WEST SIDE NEON SIGN CORP.	:	DETERMINATION
for Credit or Refund of Sales and Use	:	
Taxes under Articles 28 and 29 of the	:	
Tax Law relating to a transaction	:	
occurring on October 30, 1968.	:	

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West Side Neon Sign Corp., a registered vendor, filed an application for credit or refund of sales and use taxes under Articles 28 and 29 of the Tax Law relating to a transaction occurring on October 30, 1968. A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on September 15, 1971. The Sales Tax Bureau was represented by Edward H. Best, Esq., (Solomon Sies, Esq., of Counsel). Mr. Gustave Schlesinger appeared as president of the vendor-corporation and testified.

ISSUE

Whether a power crane is used by the vendor directly and exclusively in the production of tangible personal property for sale, and its purchase exempt from sales tax.

FINDINGS OF FACT

1. On October 30, 1968, the West Side Neon Sign Corp. purchased a truck-mounted power crane for a total price of \$12,288.00. Sales and use taxes of \$614.40 were paid on this transaction.

2. The crane portion of the vehicle was priced separately at \$6,750.00 prior to its installation on the truck, and on November 1, 1968, the vendor claimed a refund of \$337.50, (5% of \$6,750.00).

3. On February 4, 1969, the Sales Tax Bureau denied the claim for refund, and on February 21, 1969, the vendor requested a formal hearing.

4. The vendor-corporation designs and manufactures display signs of various sizes and descriptions. The signs are sold to customers in complete form, and included are erection and connection. The crane is used for the erection of the fabricated signs at the installation site. It is also used to move fabricated and half-fabricated signs within the vendor's plant.

5. The power crane is not used directly and exclusively in the production of tangible personal property for sale by manufacturing, processing or assembling, but is used primarily for the erection of completed display signs.

DETERMINATION

A. The purchase of the power crane is subject to the sales and use tax within the meaning and intent of Articles 28 and 29 of the Tax Law.

B. The claim for credit or refund is denied.

DATED: Albany, New York  
*February 23, 1972*

STATE TAX COMMISSION

*Norman Gallman*  
\_\_\_\_\_  
COMMISSIONER

*Bruce Manley*  
\_\_\_\_\_  
COMMISSIONER

*Milton Koenn*  
\_\_\_\_\_  
COMMISSIONER