

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DR. ROBERT DAVIES

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ Period ~~(s)~~ :
November, 1973.

State of New York
County of Albany

Catherine Steele, 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 13th day of September, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon Dr. Robert Davies

~~(representative of)~~ the petitioner in the within proceeding,

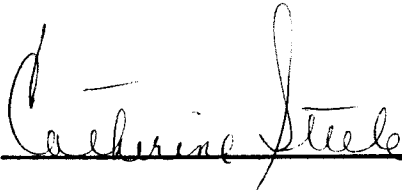
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Dr. Robert Davies
757 Fay Road
Syracuse, New York 13219

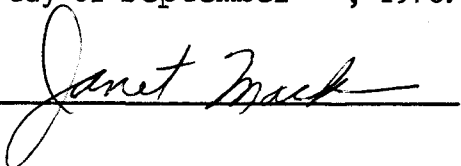
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~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

13th day of September, 1976.


Catherine Steele


Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 13, 1976

TELEPHONE: (518) **457-3850**

Dr. Robert Davies
757 Fay Road
Syracuse, New York 13219

Dear Dr. Davies:

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

Please take further notice that pursuant to
Section(s) **1139 & 1243** 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.

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.

~~XX~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
DR. ROBERT DAVIES	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Article 28 and 29 of the Tax Law for	:	
the period November, 1973.	:	

Applicant, Dr. Robert Davies, residing at 757 Fay Road, Syracuse, New York 13219, has filed an application 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 November, 1973. (File No. 0 0001609) A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, State Office Building, Syracuse, New York on April 1, 1976, at 10:45 A.M. Petitioner appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUES

Whether applicant, Dr. Robert Davies, is entitled to a refund of New York State and local sales tax paid on the purchase of a vehicle which was not registered and licensed by the Department of Motor Vehicles and subsequently resold.

FINDINGS OF FACT

1. Applicant, Dr. Robert Davies, purchased a used 1973 Volvo from one Dr. Fredericks for \$5,150.00 and paid a sales tax thereon

in the amount of \$360.50 in November 1973. The purchase was made because of the gasoline shortage at that time. Because of an erasure in the certificate of title, he was unable to register and license the vehicle with the Department of Motor Vehicles. Before he was able to get a correct certificate of title and because the gasoline shortage was short lived the car was resold two to three months thereafter to the Fazio Electric Corporation. A bill of sale from Dr. Robert Davies was presented to Fazio Electric Corp. upon the sale, and the sale charge of \$5,000.00 was paid to Dr. Robert Davies. Fazio Electric Corp. subsequently paid \$350.00 in sales tax upon the car.

2. Applicant, Dr. Robert Davies, on May 9, 1974, filed an application for refund of sales tax paid in the amount of \$360.50. On May 30, 1974, the Sales Tax Bureau denied said claim.

CONCLUSIONS OF LAW

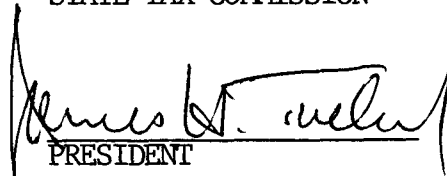
A. That there is imposed upon the receipts from every retail sale of tangible personal property a New York State and local sales tax pursuant to section 1105(a) of the Tax Law.

B. That the purchase by the applicant, Dr. Robert Davies, of a motor vehicle is a retail sale of tangible personal property which is subject to a New York State and local sales tax pursuant to section 1105(a) of the Tax Law.

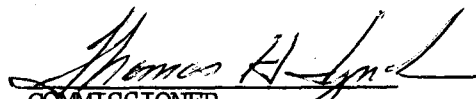
C. That the application of Dr. Robert Davies is denied.

DATED: Albany, New York
September 13, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER