

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
WILFRED BROENSTRUP

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Sales and Use :  
Taxes under Article(s) 28 & 29 of the :  
Tax Law for the Year ~~(xxxxxx Period(s))~~ :  
1974

State of New York  
County of Albany

Bruce Batchelor , 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 10th day of December , 1976 , she served the within  
Notice of Determination by ~~(certified)~~ mail upon Wilfred Broenstrup

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Wilfred Broenstrup  
19 Woodland Avenue  
Bronxville, 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 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

10th day of December , 1976

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

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of

WILFRED BROENSTRUP

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a Revision of a Determination or a Refund :  
of Sales and Use :  
Taxes under Article(s) 28 & 29 of the :  
Tax Law for the Year ~~(XXXXXX)~~ :  
1974.

State of New York  
County of Albany

Bruce Batchelor , 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 10th day of December , 19 76, she served the within  
Notice of Determination by ~~(certified)~~ mail upon Karl Heinz Oetzmann  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Karl Heinz Oetzmann, Chancellor  
Permanent Mission of the Federal Republic of Germany  
to the United Nations  
799 United Nations Plaza, New York, NY 10017  
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

10th day of December , 19 76

Bruce Batchelor

Janet Mach



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

December 10, 1976

TELEPHONE: (516) 457-3850

Mr. Wilfred Broenstrup  
19 Woodland Avenue  
Bronxville, New York

Dear Mr. Broenstrup:

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

Please take further notice that pursuant to  
Section(s) **1139 and 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,  
*Frank J. Puccia*

Frank J. Puccia  
Supervisor of  
Small Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
WILFRED BROENSTRUP	:	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 Year 1974.	:	

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Applicant, Wilfred Broenstrup, 19 Woodland Avenue, Bronxville, New York 10708, 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 year 1974 (Claim #4934).

A small claims hearing was held before Joseph Marcus, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, Room 6531, New York, New York, on July 12, 1976, at 10:45 A.M. Applicant was present and was represented by Karl Heinz Oetzmann, Chancellor, Permanent Mission of the Federal Republic of Germany to the United Nations. The Sales Tax Bureau was represented by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel). Sol Kuttner, Adviser, International Organization Affairs, United States Mission to the United Nations appeared as an observer.

ISSUE

Is the applicant, an employee of the Permanent Mission of the Federal Republic of Germany to the United Nations, liable for sales tax on a new automobile ordered prior to applicant's arrival in New York State and delivered to him after his arrival?

FINDINGS OF FACT

1. Applicant, Wilfred Broenstrup, arrived in the United States on June 4, 1974 pursuant to his employment by the Permanent Mission of the Federal Republic of Germany to the United Nations.

2. Applicant stated that in anticipation of his employment in the United States, he ordered an automobile in Germany in May, 1974. On July 5, 1974, he remitted a deposit of \$400.00 to the automobile dealer in Germany toward the purchase price of the automobile.

3. In October, 1974, applicant remitted the balance of the purchase price to his overseas dealer. Thereupon the automobile was shipped f.o.b. Goteburg and arrived in the United States in November, 1974. Applicant's address at the time he took possession of the automobile was 19 Woodland Avenue, Bronxville, New York 10708.

4. Applicant paid the sales tax on said automobile on November 15, 1974 in the amount of \$288.99.

5. Applicant filed a claim for refund for the sales tax on December 5, 1974 which was received on December 10, 1974 by the Sales Tax Bureau (Claim #4934).

6. Applicant cited Public Law 291 - 79th Congress, Chapter 652 - 1st Session - Title I, section 3, which exempts employees of foreign governments from the payment of customs duties on personal effects when imported in connection with their arrival in the United States.

7. By extension, applicant claimed this law also exempted him from payment of New York States sales tax.

#### CONCLUSIONS OF LAW

A. That applicant, Wilfred Broenstrup, did not own the automobile in question when he arrived in the United States.

B. That as an employee of a permanent mission of a foreign country to the United Nations, he was not exempt from the payment of sales tax under section 1116 of the Sales Tax Law.

C. That since applicant had a permanent place of abode in New York State, he was not exempt from sales tax under section 1117 of the Sales Tax Law.

D. That applicant is subject to sales tax on the purchase of an automobile in accordance with sections 1105 and 1110 of the Sales Tax Law.

E. The taxpayer's application for a sales tax refund is denied.

DATED: Albany, New York  
December 10, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER