

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the ~~Refund~~  
Application :  
of  
GROWER'S COOPERATIVE GRAPE JUICE :  
CO., INC. :  
For a Redetermination of a Deficiency or  
a Refund of Sales and Use :  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~Year(s)~~ 9/1/79 through  
Periods 8/31/73

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

State of New York  
County of Albany

JANET MACK , 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 17th day of December , 19 75, she served the within  
Notice of ~~Decision~~ (or Determination) by (~~certified~~) mail upon Grower's Cooperative  
Grape Juice Co., Inc.

(~~representative of~~) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Grower's Cooperative Grape Juice Co., Inc.  
112 North Portage  
Westfield, New York 14787

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

17th day of December , 1975.

Mary Goff

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the ~~Petition~~  
~~XXXXXX~~ Application :

of  
GROWER'S COOPERATIVE GRAPE JUICE :  
CO., INC. :

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

For a Redetermination of a Deficiency or  
a Refund of Sales and Use :  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the Year(s) 9/1/70 through  
Periods 8/31/73

State of New York  
County of Albany

JANET MACK

, 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 17th day of December , 1975 , she served the within  
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Thomas Webb, Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Thomas Webb, Esq.  
Williams, Stevens, McCarvelle, Frizzell, P.C.  
1920 Liberty Bank Building  
Buffalo, New York 14202  
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

17th day of December , 1975

Mary L. [Signature]

Janet Mack [Signature]



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER  
(518) 457-3336

xxx  
3850

Albany, New York  
DATED: December 17, 1975

Grower's Cooperative Grape Juice Co., Inc.  
112 North Portage  
Westfield, New York 14787

Gentlemen:

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

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

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,

*L. Robert Leisner*  
**L. ROBERT LEISNER**

HEARING OFFICER

Enc.

cc: Petitioner's Representative  
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
GROWER'S COOPERATIVE GRAPE JUICE CO., INC.	:	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 Periods September 1, 1970	:	
through August 31, 1973.	:	

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Applicant, Grower's Cooperative Grape Juice Co., Inc.,  
112 North Portage, Westfield, New York 14787, 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 Periods September 1,  
1970 through August 31, 1973.

A formal hearing was held at the offices of the State Tax  
Commission, State Office Building, Buffalo, New York, on June 13,  
1975, at 9:15 A.M. The taxpayer was represented by Williams,  
Stevens, McCarvelle & Frizzell, P.C., (Thomas Webb, Esq. of Counsel).  
The Sales Tax Bureau was represented by Saul Heckelman, Esq.,  
(Alexander Weiss, Esq. of counsel).

ISSUE

Were purchases of filter paper used in the manufacture of grape juice and subsequently used as fertilizer exempt from sales tax?

FINDINGS OF FACT

1. The taxpayer, Grower's Cooperative Grape Juice Co., Inc., timely filed New York State sales and use tax returns for the periods September 1, 1970 through August 31, 1973.

2. A Notice of Determination of sales and use taxes and penalties for the periods September 1, 1970 through August 31, 1973, was issued on June 14, 1974, against the taxpayer under Notice No. 90,752,522.

3. The taxpayer applied for a revision of the determination of the deficiencies in sales tax.

4. Applicant, Grower's Cooperative Grape Juice Co., Inc., is owned by a group of farmers who grow grapes in western New York State. The farmers operate the company themselves and pay for all the products used in the manufacturing of grape juice.

5. The applicant purchases filter paper to use in the production of grape juice. The filter paper is used to absorb

the grape so that it can be pressed into juice through a continuous process. The paper also serves as a filter in the production of grape juice.

6. After the juice has been manufactured the filter paper, which has collected solids from the grapes, is distributed to the farmers in the cooperative for use as fertilizer. The paper is used as fertilizer because it has a certain percentage of soluble solids collected in it which contain nitrogen, acid and some potash. The filter paper also helps aerate the soil. About one and one-half percent of the fertilizer is filter paper.

7. The distribution of the filter paper and residue to the farmers is done by dump truck. The farmer pays a fee for delivery but receives the fertilizer free of charge based on the amount of grapes he delivered to the plant for processing.

8. The farmers supplement the residue and filter paper fertilizer with commercial fertilizers in the production of grapes.

#### CONCLUSIONS OF LAW

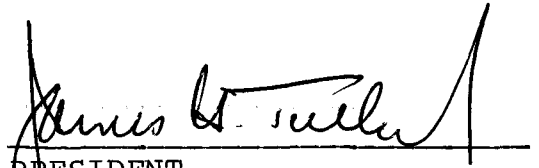
A. The filter paper is not purchased primarily for use as fertilizer. The original purpose for the purchase of the filter paper is to aid in the production and manufacture of grape juice. The use of the filter paper as fertilizer is secondary.

B. The purchase of filter paper as a raw material to produce grape juice is not tax exempt. (Fredonia Products, Inc., Determination of the State Tax Commission, February 27, 1975).

C. The deficiency in tax is sustained and pursuant to the Tax Law, interest shall be added to the total amount due until paid.

DATED: Albany, New York  
December 17, 1975

STATE TAX COMMISSION

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
COMMISSIONER

\_\_\_\_\_  
COMMISSIONER