

STATE OF NEW YORK  
STATE TAX COMMISSION

Application

In the Matter of the ~~Petitioner~~

of

LEO E. PALMER, SR., OFFICER :  
CROSSTOWN ATLANTIC SERVICE STATION :

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 November 10,  
1969 through November 30, 1970.

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 9th day of October , 19 74, she served the within  
Notice of Decision (or Determination) by ~~(certified)~~ mail upon Leo E. Palmer, Sr.,  
Officer (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Leo E. Palmer, Sr., Officer  
Crosstown Atlantic Service Station  
R.F.D. #3  
Mechanicville, New York 12118  
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

9th day of October , 1974

Martha Funaro

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

Application

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LEO E. PALMER, SR., OFFICER :  
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State of New York  
County of Albany

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she is an employee of the Department of Taxation and Finance, over 18 years of  
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Notice of Decision (or Determination) by (certified) mail upon Anthony R. Ianniello,  
Esq.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Anthony R. Ianniello, Esq.

McKane & Ianniello  
P. O. Box 612  
Mechanicville, New York 12118

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Sworn to before me this

9th day of October , 1974

Janet Mack

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

MARIO A. PROCACCINO, PRESIDENT  
A. BRUCE MANLEY  
MILTON KOERNER

BUILDING 9, ROOM 214-A  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

ADDRESS YOUR REPLY TO

MR. WRIGHT 457-2655  
MR. LEISNER 457-2657  
MR. COBURN 457-2896

**Dated:** Albany, New York

**October 9, 1974**

**Leo E. Palmer, Sr., Officer  
Crosstown Atlantic Service Station  
R.F.D. #3  
Mechanicville, New York 12118**

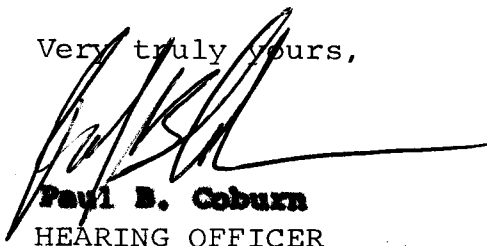
**Dear Mr. Palmer:**

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 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,



**Paul B. Coburn**  
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	:	
LEO E. PALMER, SR., OFFICER	:	
CROSSTOWN ATLANTIC SERVICE STATION	:	
	:	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 November 10, 1969	:	
through November 30, 1970.	:	
	:	

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Applicant, Leo E. Palmer, Sr., 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 10, 1969 through November 30, 1970. (File No. NY-7 384842). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on November 1, 1972, at 10:00 A.M., and continued on March 13, 1973, at 10:00 A.M. and on June 12, 1973, at 10:00 A.M. Applicant appeared by McKane & Ianniello, Esqs., (Anthony R. Ianniello, Esq., of counsel). The Sales Tax Bureau appeared by Saul Heckelman, Esq., (Francis X. Boylan, Esq., and Solomon Sies, Esq., of counsel).

ISSUE

Is applicant, Leo E. Palmer, Sr., personally liable for the New York State sales tax assessed upon the sales of gasoline, motor oil and services at the Crosstown Atlantic Service Station, 2505 Albany Street, Schenectady, New York, during the period November 10, 1969 through November 30, 1970?

FINDINGS OF FACT

1. Crosstown Atlantic Service Station failed to pay New York State sales tax assessed upon its sales of gasoline, motor oil and services for the period November 10, 1969 through November 30, 1970.

2. On March 17, 1971, a Notice of Determination and Demand for payment of sales and use taxes due was issued against applicant, Leo E. Palmer, Sr., officer of the Crosstown Atlantic Service Station, imposing sales tax for the period November 10, 1969 through November 30, 1970, in the amount of \$11,282.10. As of July 11, 1972, the unpaid sales tax liability was reduced to \$2,784.61.

3. On November 10, 1969, applicant, Leo E. Palmer, Sr., entered into a security agreement with Atlantic Richfield Company, hereinafter referred to as "Atlantic", whereby he warranted that he was engaged in the business of operating a gasoline service station at 2505 Albany Street, Schenectady, New York. At about the same time,

he also entered into an agreement of lease with Atlantic to operate the above-mentioned station, known as the Crosstown Atlantic Service Station, hereinafter referred to as the "Crosstown Station". The checking account in connection with the activity of the station was in the applicant's name, and he was the only authorized signatory. Applicant did not register as a vendor with respect to the station.

4. In February of 1970, applicant, Leo E. Palmer, Sr., entered into an agreement of lease with Atlantic to operate a service station at Clifton Park, New York. He did not terminate the lease or security agreement or close out the checking account with respect to the Crosstown station prior to November 1970. In April 1970, he filed a certificate of registration with respect to the Clifton Park station. In response to item 8 on this certificate, "if you have more than one business location, do you intend to file a single sales tax return covering all of these locations?", the applicant checked "yes".

5. On December 3, 1970, the New York State Sales Tax Bureau received from Atlantic a form ST-274 (Notification of Sale, Transfer or Assignment in Bulk) to notify the Bureau that the Crosstown station was operated by Leo E. Palmer, Sr., as a vendor from November 10, 1969 to November 30, 1970.

6. On February 23, 1971, a check was made payable to the order of applicant, Leo E. Palmer, Sr., for \$51.30 representing the credit balance on his account with Atlantic pertaining to the Crosstown station. This check was retained by applicant.

7. On June 23, 1972, Atlantic sent a letter to the attorney for applicant, Leo E. Palmer, Sr., listing his monthly gasoline volume and motor oil purchases while a lessee dealer operating the Crosstown station during the period November 1969 to November 1970.

8. Applicant contended that his brother, Ralph Palmer and his nephew, Michael Palmer, were operating Crosstown during the period from November 10, 1969 through November 30, 1970, and that he had nothing to do with the operation of the business during said period and, therefore, was not liable for the tax.

#### CONCLUSIONS OF LAW

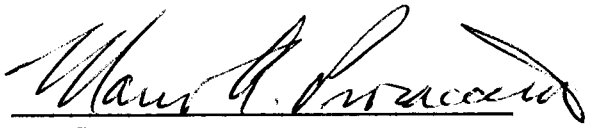
A. That applicant, Leo E. Palmer, Sr., was the operator of the Crosstown station during the period November 10, 1969 to November 30, 1970.

B. That applicant, Leo E. Palmer, Sr., is personally liable for the New York State sales tax assessed upon the sales of gasoline motor oil and services at the Crosstown station during the period November 10, 1969 through November 30, 1970.

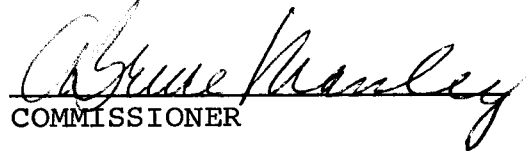
C. That the application of Leo E. Palmer, Sr., is denied,  
and the Notice of Determination and Demand for payment of sales  
and use taxes due is sustained.

DATED: Albany, New York  
October 9, 1974

STATE TAX COMMISSION



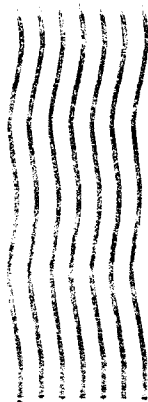
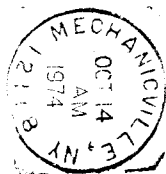
PRESIDENT



COMMISSIONER



COMMISSIONER

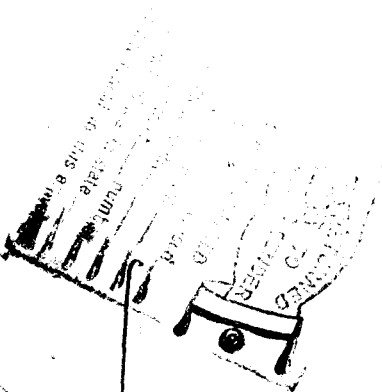


STATE OF NEW YORK  
Department of Taxation and Finance

STATE CAMPUS  
ALBANY, N. Y. 12227

Leo E. Palmer, Sr., Officer  
Crosstown Atlantic Service Station  
~~R.F.D. #3~~  
~~Mechanicville, New York 12118~~

~~104 R3~~





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DEPARTMENT OF TAXATION AND FINANCE

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Dated: Albany, New York

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Any inquiries concerning the computation of tax  
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These will be referred to the proper party for  
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Very truly yours,

  
Paul B. Coburn  
HEARING OFFICER

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cc: Petitioner's Representative  
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AD-1.12 (8/73)

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under Articles 28 and 29 of the Tax :  
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newly discovered evidence is of a very

recent date, and is therefore of great

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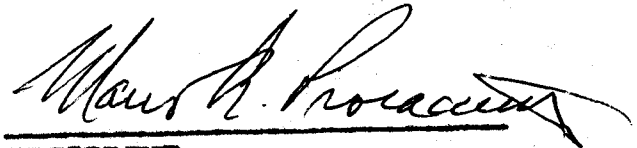
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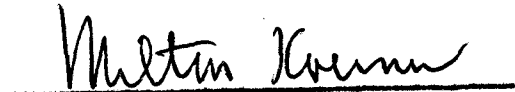
STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER