

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

STANLEY MORRISSEY, Officer of
PERMA LIFE ASSOCIATES, INC.:

For a Redetermination of a Deficiency or
a Refund of Sales & Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~years~~ Period September 1, 1966
through August 31, 1967.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
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 30th day of December, 1974, she served the within
Notice of ~~xxxxxx~~ (Determination) by ~~(xxxxxx)~~ mail upon Stanley Morrissey,
Officer of Perma Life ~~Associates, Inc.~~ ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Stanley Morrissey, Officer
Perma Life Associates, Inc.
143 Bennington Road
Amherst, New York 14226
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)~~
~~xx~~ 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

30th day of December, 1974

Martha T. [Signature]

Janet Mack



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
December 30, 1974

Stanley Morrissey, Officer
Perma Life Associates, Inc.
143 Bennington Road
Amherst, New York 14226

Dear Mr. Morrissey:

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,

L. Robert Leisner
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :

of :

STANLEY MORRISSEY, Officer of :
PERMA LIFE ASSOCIATES, 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 Period September 1, 1966 through :
August 31, 1967. :

Applicant, Stanley Morrissey, officer of Perma Life Associates, Inc., 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 period September 1, 1966 through August 31, 1967.

A formal hearing was held at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on February 6, 1973, before L. Robert Leisner, Hearing Officer. The taxpayer appeared pro se, and the Sales Tax Bureau was represented by Saul Heckelman, Esq., (Francis X. Boylan, Esq., of Counsel).

ISSUE

Is the taxpayer liable for sales tax on merchandise he contends was never paid for?

FINDINGS OF FACT

1. The taxpayer, Stanley Morrissey, officer of Perma Life Associates, Inc., filed late New York State sales and use tax returns for the periods September 1, 1966 through November 30, 1966; December 1, 1966 through February 28, 1967; March 1, 1967 through May 31, 1967, but failed to file for the period June 1, 1967 through August 31, 1967.

2. A Notice of Determination of sales and use taxes (and penalties) for the period June 1, 1967 through August 31, 1967, was issued on July 9, 1968, against Perma Life Associates, Inc., under Notice No. 90725868. A Notice of Determination of sales and use taxes (and penalties) for the periods September 1, 1966 through November 30, 1966; December 1, 1966 through February 28, 1967; March 1, 1967 through May 31, 1967; June 1, 1967 through August 31, 1967, was issued on November 9, 1969, against Stanley Morrissey, under Notice No. 90,202,722.

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

4. The taxpayer was an officer of Perma Life Associates, Inc., a mail order sales business headquartered in New York State during the periods in issue.

5. A penalty was assessed for each period of filing late by the Sales Tax Bureau. An additional tax of \$8.56 was levied for the period December 1, 1966 through February 28, 1967. The taxpayer did not contest these penalties or this extra tax.

6. The taxpayer contested the assessment of \$1,000.00 tax due plus penalty and interest for the period June 1, 1967 through August 31, 1967, when he failed to file. He contended the deficiency was arbitrary and that because of legal problems with the Internal Revenue Service and the New York State Attorney General's Office, he had been prevented from receiving payments for sales made during this period. The taxpayer introduced no substantial or documentary evidence concerning these legal problems.

CONCLUSIONS OF LAW

A. The extra tax for the period December 1, 1966 through February 28, 1967, and the penalties for the periods September 1, 1966 through November 30, 1966; December 1, 1966 through February 28, 1967, and March 1, 1967 through May 31, 1967, are sustained.

B. The taxpayer failed to sustain the burden of proof that he received no payment for sales made during the period June 1, 1967 through August 31, 1967. The Sales Tax Bureau's estimated deficiency of \$1,000.00 is an excessive estimate. Based on the taxpayer's highest previous payment, for the period September 1, 1966 through November 30, 1966, it is found that the taxpayer's sales tax liability for the period he failed to file is in the amount of \$416.34. Any penalties and interest due will be determined on the aforesaid sales tax liability for the period June 1, 1967 through August 31, 1967.

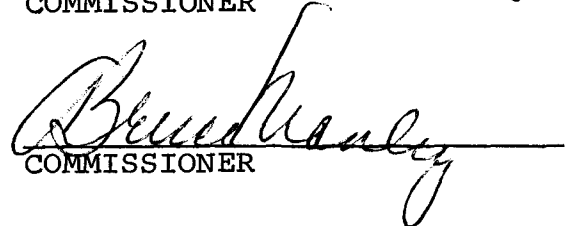
C. The deficiency, as modified above, is sustained and the taxpayer's application is denied.

D. Pursuant to the Tax Law, interest shall be added to the total amount due until the date of payment.

DATED: Albany, New York
December 30, 1974

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER