

STATE OF NEW YORK
STATE TAX COMMISSION

Application

In the Matter of the ~~Petition~~

of

ALAN W. MOLLENHAUER

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 April 11, 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 23rd day of December , 1974 , she served the within
Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon Sgt. Alan W.

Mollenhauer ~~(representative of)~~ the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Sgt. Alan W. Mollenhauer
Pine Rest Home Ct., Lot #12
MTD Route 10
Plattsburgh, New York 12901

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)~~
~~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

23rd day of December , 1974.

Janet Mack

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

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

Dated: Albany, New York

December 23, 1974

**Sgt. Alan W. Mollenhauer
Pine Rest Home Ct., Lot #12
MTD Route 10
Plattsburgh, New York 12901**

Dear Sgt. Mollenhauer:

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	:	
ALAN W. MOLLENHAUER	:	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 Period April 11, 1970.	:	

Alan W. Mollenhauer 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 April 11, 1970.

The case was submitted for decision on information contained in the file. The taxpayer filed his application and the Sales Tax Bureau was represented by Saul Heckelman, Esq., of counsel.

ISSUE

Was the taxpayer a nonresident and was he entitled to a refund of sales tax paid on a mobile home?

FINDINGS OF FACT

1. The taxpayer, Alan W. Mollenhauer, timely filed New York State sales and use tax returns for the period April 11, 1970.

2. A denial of a refund application for sales tax for the period April 11, 1970, was issued on May 18, 1971.

3. The taxpayer petitioned for a revision of the determination of denial of the refund of sales tax.

4. The taxpayer bought a mobile home for \$4,595.00 on April 11, 1970, at Plattsburgh, New York, from a mobile home dealer. The mobile home was delivered to and set up in a trailer court in another location in Plattsburgh.

5. The taxpayer asserted that his mobile home was included in the term "motor vehicle" within the meaning of section 1117(b) and (c) of the Tax Law; further, that he was a nonresident and his purchase of the mobile home was nontaxable.

6. The taxpayer asserted he was a resident of Goodhue, Minnesota and a nonresident of New York, assigned to duty at Plattsburgh Air Force Base.

7. He used the mobile home as a temporary home at Plattsburgh Air Force Base.

CONCLUSIONS OF LAW

A. Where the taxpayer lived off base and his regular dwelling place was the mobile home located in New York State he was not a nonresident.

B. A mobile home which is purchased and then moved to a trailer court is personal property at the time of the purchase.


C. A mobile home which is primarily a dwelling place and is only occasionally drawn by a motor vehicle is not a motor vehicle within the meaning of section 1117(b) and (c) of the Tax Law and section 156 of the Vehicle and Traffic Law.

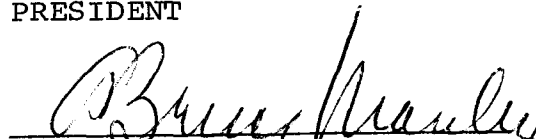
D. The sale of such a mobile home sold and delivered and used as a dwelling in New York State is subject to sales tax.

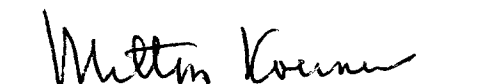
E. The denial of the taxpayer's refund claim is sustained.

DATED: Albany, New York
December 23, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
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L. Robert Leisner
HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

AD-1.12 (8/73)

STATE OF NEW YORK
Department of Taxation and Finance

STATE CAMPUS

ALBANY, N. Y. 12227

Sgt. Alan W. Mollenhauer
Pine Rest Home Ct., Lot #12
MTD Route 10
Plattsburgh, New York 12901

ATTN: J. F. Berthel
Bldg #9

61-341-145-14
new #55
Bertie



STATE OF NEW YORK

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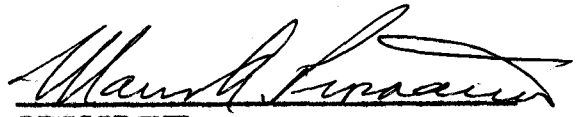
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