

STATE OF NEW YORK
STATE TAX COMMISSION

: IN THE MATTER OF APPLICATION OF :
: :
: CHEMICAL BANK :
: :
For Refund of Sales and Use Taxes imposed :
pursuant to Article 28 and under the :
authority of Article 29 of the Tax Law, :
and imposed pursuant to New York City Local :
Law No. 73 of 1965, as amended, and the :
ordinance of the County of Nassau for the :
period commencing August 1, 1965 and ending :
December 31, 1965, and for the calendar :
years 1966, 1967, 1968 and 1969. :
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FORMAL
DETERMINATION

The taxpayer, Chemical Bank, having duly and timely filed applications for refund of sales and compensating use taxes for the periods August 1, 1965 through December 31, 1965, January 1, 1966 through December 31, 1966, January 1, 1967 through December 31, 1967, January 1, 1968 through December 31, 1968, and January 1, 1969 through December 31, 1969 imposed pursuant to Article 28 and under the authority of Article 29 of the Tax Law, and imposed pursuant to New York City Local Law No. 73 of 1965, as amended, and the ordinance of the County of Nassau; and said applications for refund having been denied by the State Tax Commission; and the taxpayer then having duly and timely filed applications for a hearing by the State Tax Commission to review the denials of the requested refunds; and a stipulation of facts having been entered into by and between the taxpayer, Chemical Bank, and the State Tax Commission, a copy of such stipulation of facts together with the exhibits which are part thereof, being hereto attached and made a part of this determination, the State Tax Commission hereby finds the following facts:

1. The taxpayer, Chemical Bank, is a commercial bank and trust company incorporated under the laws of the State of New York. It is now and was at all relevant times engaged in the commercial banking business in this State.

2. The taxpayer, during the periods involved, exercised substantially similar functions and engaged in substantially similar business as national banks in the State of New York incorporated under the laws of the United States.

3. The taxpayer, during the periods involved, was a purchaser of tangible personal property and services, including the following:

electronic computer equipment and services, office equipment, office furniture and furnishings, office supplies, check books and other bank forms, vaults, safe deposit boxes, automobiles and trucks, repairs, utilities, cleaning, maintenance supplies, medical supplies, publications, storage, printing and mailing, dining room and food service, and give away premiums.

All of the property, and all other items purchased during the aforesaid periods by the taxpayer on which sales or compensating use taxes have been paid, are of a description, nature and kind subject to the sales and compensating use taxes imposed by Article 28 and pursuant to the authority of Article 29 of the Tax Law in the case of persons subject to tax thereunder.

4. All of the aforesaid tangible personal property services and items are similar in description, nature and kind to those purchased or used in this State by purchasers generally, and upon which taxes have been paid by such purchasers whether or not such purchasers were doing a banking business or residing in, doing business in or incorporated in the State of New York or under the laws thereof. The taxpayer concedes that taxes were

lawfully due and owing from purchasers generally. The taxpayer contends however that those purchasers which were doing a banking business under the facts set forth in Finding of Fact No. 2 were immune from the tax during the periods involved.

5. There is no language contained in Articles 28 and 29 of the Tax Law, or any local laws, ordinances or resolutions under the authority of such latter article, which imposes sales or compensating use taxes on purchases by banks or banking institutions in a manner different than upon purchasers generally, nor is there any language contained therein which states that banks or banking institutions, whether state or national, are exempt from paying sales or compensating use taxes on its purchases; furthermore, paragraph (2) of subdivision (a) of section 1116 of the Tax Law grants to the United States of America and any of its agencies or instrumentalities as purchaser, user or consumer, an exemption only insofar as it is immune from taxation. Such paragraph reads as follows:

"Sec. 1116. Exempt organizations.--(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

* * *

"(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;"

6. As decided by the United States Supreme Court in First Agric. Nat. Bank of Berkshire County v. State Tax Comm., 392 U.S. 339, a state has no power to tax national banks unless specifically authorized by Congress and that Congress had not, prior to the expiration of the periods in issue, authorized the imposition of sales and use taxes; that the New York Court of Appeals in the case of Liberty Nat. Bank & Trust Co. v. William K. Buscaglia, 23 N Y 2d 933, reversing 21 N Y 2d 357;

affirmed a lower court order exempting national banks from sales and use taxes upon the constraint of the First Agric. Nat. Bank of Berkshire County decision supra, and of Dickinson v. First Nat. Bank of Homestead, 393 U.S. 409; that accordingly the taxes imposed by Article 28 and under the authority of Article 29 of the Tax Law of New York State were not among those permitted by Congress in R.S., Section 5219 (12 U.S.C. Section 548) and national banks were therefore immune from taxation under such Articles.

7. Section 4 of Article XVI of the Constitution of the State of New York, which Article was adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938, provides as follows:

"ARTICLE XVI

*

*

*

"§ 4. Where the state has power to tax corporations incorporated under the laws of the United States there shall be no discrimination in the rates and method of taxation between such corporations and other corporations exercising substantially similar functions and engaged in substantially similar business within the state."

8. On December 24, 1969, immediately subsequent to the taxable periods herein, the law set forth in section 548 of Title 12 of the United States Code (R.S., Section 5219) was amended to permit the imposition by states of sales and compensating use taxes upon national banks; that from December 24, 1969 to date, by virtue of the provisions of the aforesaid Federal statute and paragraph (2) of subdivision (a) of section 1116 of the Tax Law of New York which exempted instrumentalities of the United States of America from sales and use taxes only if immune from taxation, national banks lost their immunity, and from December 24, 1969 to date sales and compensating use taxes have been imposed upon national banks; that the taxpayer is not contesting the payment of sales and compensating use taxes for any periods subsequent to December 23, 1969.

Based upon the foregoing the State Tax Commission hereby DETERMINES:

A. That the sales and compensating use taxes imposed by Article 28 and under the authority of Article 29 of the Tax Law are imposed upon purchasers generally.

B. That, accordingly, such taxes are general taxes and not imposed upon banks as a class; that such taxes are imposed without discrimination upon a general class of purchasers including banks. (Matter of Bank of Manhattan Co. v. Murphy, 293 N.Y. 515)

C. That neither the spirit nor the letter of section 4 of Article XVI of the Constitution of the State of New York is violated by the provisions of Articles 28 and 29 of the Tax Law and of any laws, ordinances or resolutions made under the authority of Article 29, which impose taxes without discrimination, upon a broad class in which banks are included, not because they are engaged in banking but because they are purchasers. (Matter of Bank of Manhattan Co. v. Murphy, 293 N.Y. 515)

D. That throughout the entire taxable period herein, the restriction set forth in section 4 of Article XVI of the Constitution of the State of New York had no application, and state banks remained subject to the sales and compensating use taxes, since such periods were prior in time to December 24, 1969, upon which date Congress granted to the states permission to impose sales and compensating use taxes on national banks. (Matter of Bank of Manhattan Co. v. Murphy, 293 N.Y. 515)

E. That any sales and compensating use taxes which may have been paid by the taxpayer during the periods involved were

required to be paid; accordingly, the State Tax Commission properly denied the taxpayer's application for refund, and such denial of refund is hereby affirmed.

STATE TAX COMMISSION

DATED: ALBANY, NEW YORK
DECEMBER 22, 1971

BY Norman Gallivan

Bruce Manley

Milton Korman

STATE OF NEW YORK

STATE TAX COMMISSION

----- -x
: IN THE MATTER OF APPLICATION OF
:

CHEMICAL BANK
:

For Refund of Sales and Use Taxes imposed pursuant to
Article 28 and under the authority of Article 29 of
the Tax Law, and imposed pursuant to New York City
Local Law No. 73 of 1965, as amended, and the ordinance
of the County of Nassau for the period commencing
August 1, 1965 and ending December 31, 1965, and for
the calendar years 1966, 1967, 1968 and 1969.
:
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STIPULATION OF FACTS

IT IS HEREBY STIPULATED AND AGREED that the
following facts are applicable with respect to all the
above-captioned periods and further that such facts
shall be taken in lieu of a formal hearing as the basis
for any determination by the State Tax Commission,
Chemical Bank (hereinafter called "the taxpayer") and
the State Tax Commission having waived the right to
present any further evidence at a hearing or to make
any further examination or inquiry except as set forth
below:

1. The taxpayer filed applications for refund of sales and compensating use taxes on tangible personal property, services and other items purchased or used by it within this State, such taxes being imposed under the laws specified in the caption hereof.

2. Such applications for refund, copies of which are hereto attached and marked Exhibit A1, A2, A3, A4 and A5 were duly and timely filed pursuant to section 1139 of the Tax Law for the periods, in the amounts, and on the dates set forth below:

<u>PERIODS</u>	<u>AMOUNT</u>	<u>DATE</u>
August 1, 1965 through December 31, 1965	\$ 192,001.51	December 12, 1969
January 1, 1966 through December 31, 1966	573,312.26	December 12, 1969
January 1, 1967 through December 31, 1967	719,897.10	December 12, 1969
January 1, 1968 through December 31, 1968	992,759.40	May 6, 1970
January 1, 1969 through December 31, 1969	1,017,389.83	May 6, 1970

3. The first three applications for refund filed for the periods August 1, 1965 through December 31, 1965, January 1, 1966 through December 31, 1966, and January 1, 1967 through December 31, 1967 were denied by the State Tax Commission on January 12, 1970, and the last two applications for a refund filed for the periods January 1, 1968 through December 31, 1968, and January 1, 1969 through December 31, 1969, were denied by the State Tax Commission on May 20, 1970, copies of letters by the State Tax Commission denying such applications being hereto attached, and marked Exhibit B1 and B2, respectively.

4. The taxpayer, on April 1, 1970, duly and timely filed application for a hearing by the State Tax Commission to review the denials of the refunds of the first three said applications, and on May 26, 1970, duly and timely filed application for a hearing by the State Tax Commission to review the denial of the last two said applications; copies of letters applying for a hearing being hereto attached and marked Exhibit C1 and C2.

5. The taxpayer is a commercial bank and trust company incorporated under the laws of the State of New York. It is now and was at all relevant times engaged in the commercial banking business in this State, primarily in the City of New York.

6. The taxpayer, during the periods involved, exercised substantially similar functions and engaged in substantially similar business as national banks in the State of New York incorporated under the laws of the United States.

7. The taxpayer, during the periods involved, was a purchaser of tangible personal property and services, including the following:

electronic computer equipment and services, office equipment, office furniture and furnishings, office supplies, check books and other bank forms, vaults, safe deposit boxes, automobiles and trucks, repairs, utilities, cleaning, maintenance supplies, medical supplies, publications, storage, printing and mailing, dining room and food service, and give-away premiums.

All of the property, and all other items purchased during the aforesaid periods by the taxpayer on which sales or compensating use taxes had been paid, are of

a description, nature and kind subject to the sales and compensating use taxes imposed by Article 28 and pursuant to the authority of Article 29 of the Tax Law in the case of persons subject to tax thereunder.

8. All of the aforesaid tangible personal property, services and items are similar in description, nature and kind to those purchased or used in this State by purchasers generally and upon which taxes have been lawfully due and owing and paid by such purchasers, whether or not such purchasers were doing a banking business or residing in, doing business in or incorporated in the State of New York or under the laws thereof; provided, however, that this paragraph shall not be construed as a stipulation as to whether or not such taxes were lawfully due and owing and paid by purchasers doing a banking business in the State of New York in the manner set forth in paragraph 6 of this stipulation.

9. No determination denying a refund of tax shall be made by the State Tax Commission on the ground that proof of payment of tax by the taxpayer has not been shown, unless the taxpayer is first afforded an opportunity to present proof of such payment .

acceptable to the State Tax Commission.

10. Before any refund of taxes can be made, the taxpayer shall first be required to submit proof that the taxes have been paid by it. Furthermore, before any refund can be made, the State Tax Commission shall have the right to examine into the proof offered by the taxpayer and to audit the books and records of the taxpayer to ascertain the amount of taxes paid. Nothing in this paragraph shall be construed to deprive the taxpayer of any lawful remedies to review the amount refunded in the event that a refund is made and the amount refunded is less than the amount requested by the taxpayer in its applications for refund.

11. With respect to any other periods for which the taxpayer has duly filed timely applications for refund of sales and use taxes and also timely applications for hearing in the event of a denial of the applications for refund, the State Tax Commission may defer the issuance of determinations for such periods until a final determination has been made by the State Tax Commission or by the courts with respect

to the periods herein.

STATE TAX COMMISSION

BY Edward H. Post
Counsel for State Tax
Commission

CHEMICAL BANK

BY David Sachs
Attorney for Taxpayer

APPLICATION FOR CREDIT OR REFUND OF STATE AND LOCAL SALES OR USE TAX

TYPE OR PRINT

NAME OF CLAIMANT

Chemical Bank (formerly Chemical Bank New York Trust Co.)

IDENTIFICATION NO. (IF REGISTERED VENDOR)

13-49046500

STREET ADDRESS

20 Pine Street

PERIOD COVERED BY CLAIM

August 1, 1965 - December 31, 1965

CITY

New York

STATE

New York

ZIP CODE

10015

REFUND CLAIMED

\$ 192,001.51

NAME OF REPRESENTATIVE (IF ANY)

CREDIT CLAIMED

\$

STREET ADDRESS

CITY

STATE

ZIP CODE

IF CREDIT SHOWN ABOVE HAS ALREADY BEEN CLAIMED ON A RETURN, INDICATE

PERIOD

Give a full explanation below, including all facts on which your claim is based. Use additional sheets if necessary and submit all documents necessary to properly substantiate your claim.

Claim is hereby made for a refund of Sales and Compensating Use Taxes imposed under Articles 23 and 29 of the Tax Law, Chapter 60, Consolidated Laws, as amended.


Since Section 5219 of the Revised Statutes of the United States, as interpreted by the New York State Court of Appeals and the United States Supreme Court, prohibits the imposition of sales and compensating use taxes on national banks, we contend that the imposition of such taxes on Chemical Bank (formerly Chemical Bank New York Trust Company), a state bank organized under the laws of the State of New York, constitutes discrimination in a method of taxation between state-chartered banks and national banks which is prohibited, illegal and unconstitutional under Article XVI, Section 4 of the Constitution of the State of New York.

Chemical Bank (formerly Chemical Bank New York Trust Company) paid, during the period covered by this claim for refund, sales taxes to vendors and other business concerns and compensating use taxes to the State of New York in connection with numerous purchases upon which such taxes were imposed in the amount of the refund claimed.

Detailed data and substantiation of this claim for refund as required by the instructions on the reverse side of this form are not being submitted herewith in accordance with the advice contained in a letter dated March 25, 1969 from Mr. Fred W. Tierney, Director, Sales Tax Bureau, copy attached, addressed to Sullivan & Cromwell, Esqs., New York, N.Y. in reply to their letter dated March 19, 1969 written on behalf of the New York Clearing House Association. Such detailed data and substantiation is available at Chemical Bank's office at 20 Pine Street, New York, N.Y.

Russell F. Schomp, the claimant named above, or partner, officer, or other authorized representative of such claimant, do hereby make application for refund and/or credit of sales or use tax, pursuant to the New York State Tax Law, and certify that all New York State sales and use taxes, if any, for which this claim is filed, have been paid; that no portion of the tax has been refunded or credited to me by any vendor; and that this claim does not include any items for which refund or credit was previously received.

SIGNATURE



TITLE

Senior Tax Officer

DATE

December 12, 1969

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE
SALES TAX BUREAU
STATE CAMPUS, ALBANY, N.Y. 12226

APPLICATION FOR CREDIT OR REFUND OF STATE AND LOCAL SALES OR USE TAX

TYPE OR PRINT NAME OF CLAIMANT			IDENTIFICATION NO. (IF REGISTERED VENDOR)
Chemical Bank (formerly Chemical Bank New York Trust Co.)			13-49946500
STREET ADDRESS			PERIOD COVERED BY CLAIM
20 Pine Street			January 1, 1966 - December 31, 1966
CITY	STATE	ZIP CODE	REFUND CLAIMED
New York	New York	10015	\$ 573,312.26
NAME OF REPRESENTATIVE (IF ANY)			CREDIT CLAIMED
			\$
STREET ADDRESS			IF CREDIT SHOWN ABOVE HAS ALREADY BEEN CLAIMED ON A RETURN, INDICATE
CITY	STATE	ZIP CODE	PERIOD

Give a full explanation below, including all facts on which your claim is based. Use additional sheets if necessary and submit all documents necessary to properly substantiate your claim.

Claim is hereby made for a refund of Sales and Compensating Use Taxes imposed under Articles 28 and 29 of the Tax Law, Chapter 60, Consolidated Laws, as amended.

Since Section 5219 of the Revised Statutes of the United States, as interpreted by the New York State Court of Appeals and the United States Supreme Court, prohibits the imposition of sales and compensating use taxes on national banks, we contend that the imposition of such taxes on Chemical Bank (formerly Chemical Bank New York Trust Company), a state bank organized under the laws of the State of New York, constitutes discrimination in a method of taxation between state-chartered banks and national banks which is prohibited, illegal and unconstitutional under Article XVI, Section 4 of the Constitution of the State of New York.

Chemical Bank (formerly Chemical Bank New York Trust Company) paid, during the period covered by this claim for refund, sales taxes to vendors and other business concerns and compensating use taxes to the State of New York in connection with numerous purchases upon which such taxes were imposed in the amount of the refund claimed.

Detailed data and substantiation of this claim for refund as required by the instructions on the reverse side of this form are not being submitted herewith in accordance with the advice contained in a letter dated March 25, 1969 from Mr. Fred W. Tierney, Director, Sales Tax Bureau, copy attached, addressed to Sullivan & Cromwell, Esqs., New York, N.Y. in reply to their letter dated March 19, 1969 written on behalf of the New York Clearing House Association. Such detailed data and substantiation is available at Chemical Bank's office at 20 Pine Street, New York, N.Y.

I, Russell F. Schomp, the claimant named above, or partner, officer, or other authorized representative of such claimant, do hereby make application for refund and/or credit of sales or use tax, pursuant to the New York State Tax Law, and certify that all New York State sales and use taxes, if any, for which this claim is filed, have been paid; that no portion of the tax has been refunded or credited to me by any vendor; and that this claim does not include any items for which refund or credit was previously received.

SIGNATURE	TITLE	DATE
	Senior Tax Officer	December 12, 1969

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

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STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE
SALES TAX BUREAU
STATE CAMPUS, ALBANY, N.Y. 12226

APPLICATION FOR CREDIT OR REFUND OF STATE AND LOCAL SALES OR USE TAX

TYPE OR PRINT					
NAME OF CLAIMANT			IDENTIFICATION NO. (IF REGISTERED VENDOR)		
Chemical Bank (formerly Chemical Bank New York Trust Co.)			13-49346500		
STREET ADDRESS			PERIOD COVERED BY CLAIM		
20 Pine Street			January 1, 1967 - December 31, 1967		
CITY	STATE	ZIP CODE	REFUND CLAIMED		
New York	New York	10015	\$ 710,897.10		
NAME OF REPRESENTATIVE (IF ANY)			CREDIT CLAIMED		
			\$		
STREET ADDRESS			IF CREDIT SHOWN ABOVE HAS ALREADY BEEN CLAIMED ON A RETURN, INDICATE		
			PERIOD		
CITY	STATE	ZIP CODE			

Give a full explanation below, including all facts on which your claim is based. Use additional sheets if necessary and submit all documents necessary to properly substantiate your claim.

Claim is hereby made for a refund of Sales and Compensating Use Taxes imposed under Articles 25 and 29 of the Tax Law, Chapter 60, Consolidated Laws, as amended.

Since Section 5219 of the Revised Statutes of the United States, as interpreted by the New York State Court of Appeals and the United States Supreme Court, prohibits the imposition of sales and compensating use taxes on national banks, we contend that the imposition of such taxes on Chemical Bank (formerly Chemical Bank New York Trust Company), a state bank organized under the laws of the State of New York, constitutes discrimination in a method of taxation between state-chartered banks and national banks which is prohibited, illegal and unconstitutional under Article XVI, Section 4 of the Constitution of the State of New York.

Chemical Bank (formerly Chemical Bank New York Trust Company) paid, during the period covered by this claim for refund, sales taxes to vendors and other business concerns and compensating use taxes to the State of New York in connection with numerous purchases upon which such taxes were imposed in the amount of the refund claimed.

Detailed data and substantiation of this claim for refund as required by the instructions on the reverse side of this form are not being submitted herewith in accordance with the advice contained in a letter dated March 25, 1969 from Mr. Fred W. Tierny, Director, Sales Tax Bureau, copy attached, addressed to Sullivan & Cromwell, Esqs., New York, N.Y. in reply to their letter dated March 19, 1969 written on behalf of the New York Clearing House Association. Such detailed data and substantiation is available at Chemical Bank's office at 20 Pine Street, New York, N.Y.

I, Russell F. Schomp, the claimant named above, or partner, officer, or other authorized representative of such claimant, do hereby make application for refund and/or credit of sales or use tax, pursuant to the New York State Tax Law, and certify that all New York State sales and use taxes, if any, for which this claim is filed, have been paid; that no portion of the tax has been refunded or credited to me by any vendor; and that this claim does not include any items for which refund or credit was previously received.

SIGNATURE	TITLE	DATE
	Senior Tax Officer	December 12, 1969

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE
SALES TAX BUREAU
STATE CAMPUS, ALBANY, N.Y. 12226

APPLICATION FOR CREDIT OR REFUND OF STATE AND LOCAL SALES OR USE TAX

TYPE OR PRINT			IDENTIFICATION NO. (IF REGISTERED VENDOR)	
NAME OF CLAIMANT			13-4924350 C	
STREET ADDRESS			PERIOD COVERED BY CLAIM	
20 Pine Street			January 1, 1968 - December 31, 1968	
CITY	STATE	ZIP CODE	REFUND CLAIMED	
New York, New York		10015	\$ 902,759.40	
NAME OF REPRESENTATIVE (IF ANY)			CREDIT CLAIMED	
			\$	
STREET ADDRESS			IF CREDIT SHOWN ABOVE HAS ALREADY BEEN CLAIMED ON A RETURN, INDICATE	
CITY	STATE	ZIP CODE	PERIOD	

Give a full explanation below, including all facts on which your claim is based. Use additional sheets if necessary and submit all documents necessary to properly substantiate your claim.


Claim is hereby made for a refund of Sales and Compensating Use Taxes imposed under Articles 28 and 29 of the Tax Law, Chapter 60, Consolidated Laws, as amended.

Since Section 5219 of the Revised Statutes of the United States, as interpreted by the New York State Court of Appeals and the United States Supreme Court, prohibits the imposition of sales and compensating use taxes on national banks, we contend that the imposition of such taxes on Chemical Bank (formerly Chemical Bank New York Trust Company), a state bank organized under the laws of the State of New York, constitutes discrimination in a method of taxation between state chartered banks and national banks which is prohibited, illegal and unconstitutional under Article XVI, Section 4 of the Constitution of the State of New York.

Chemical Bank (formerly Chemical Bank New York Trust Company) paid, during the period covered by this claim for refund, sales taxes to vendors and other business concerns and compensating use taxes to the State of New York in connection with numerous purchases upon which such taxes were imposed in the amount of the refund claimed.

Detailed data and substantiation of this claim for refund as required by the instructions on the reverse side of this form are not being submitted herewith in accordance with the advice contained in a letter dated March 25, 1969 from Mr. Fred W. Tierny, Director, Sales Tax Bureau, copy attached, addressed to Sullivan & Cromwell, Esqs., New York, N.Y. in reply to their letter dated March 19, 1969 written on behalf of the New York Clearing House Association. Such detailed data and substantiation is available at Chemical Bank's office at 20 Pine Street, New York, N.Y.

I, Russell E. Scherbin, the claimant named above, or partner, officer, or other authorized representative of such claimant, do hereby make application for refund and/or credit of sales or use tax, pursuant to the New York State Tax Law, and certify that all New York State sales and use taxes, if any, for which this claim is filed, have been paid; that no portion of the tax has been refunded or credited to me by any vendor; and that this claim does not include any items for which refund or credit was previously received.

SIGNATURE	TITLE	DATE
	Senior Tax Officer	May 6, 1970

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STATE OF NEW YORK - DEPARTMENT OF TAXATION AND FINANCE
SALES TAX BUREAU
STATE CAMPUS, ALBANY, N.Y. 12226

APPLICATION FOR CREDIT OR REFUND OF STATE AND LOCAL SALES OR USE TAX

TYPE OR PRINT

NAME OF CLAIMANT Chemical Bank (Formerly Chemical Bank New York Trust Co.)			IDENTIFICATION NO. (IF REGISTERED VENDOR) 12-1994650
STREET ADDRESS 20 Pine Street			PERIOD COVERED BY CLAIM January 1, 1969 - December 31, 1969
CITY New York, New York	STATE 10015	ZIP CODE	REFUND CLAIMED \$ 1,617,389.83
NAME OF REPRESENTATIVE (IF ANY)			CREDIT CLAIMED \$
STREET ADDRESS			IF CREDIT SHOWN ABOVE HAS ALREADY BEEN CLAIMED ON A RETURN, INDICATE
CITY	STATE	ZIP CODE	PERIOD

Give a full explanation below, including all facts on which your claim is based. Use additional sheets if necessary and submit all documents necessary to properly substantiate your claim.

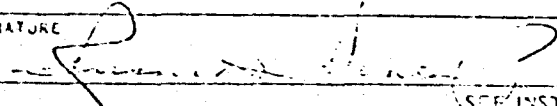
Claim is hereby made for a refund of Sales and Compensating Use Taxes imposed under Articles 20 and 29 of the Tax Law, Chapter 60, Consolidated Laws, as amended.

Since Section 5219 of the Revised Statutes of the United States, as interpreted by the New York State Court of Appeals and the United States Supreme Court, prohibits the imposition of sales and compensating use taxes on national banks, we contend that the imposition of such taxes on Chemical Bank (formerly Chemical Bank New York Trust Company), a state bank organized under the laws of the State of New York, constitutes discrimination in a method of taxation between state-chartered banks and national banks which is prohibited, illegal and unconstitutional under Article XVI, Section 4 of the Constitution of the State of New York.

Chemical Bank (formerly Chemical Bank New York Trust Company) paid, during the period covered by this claim for refund, sales taxes to vendors and other business concerns and compensating use taxes to the State of New York in connection with numerous purchases upon which such taxes were imposed in the amount of the refund claimed.

Detailed data and substantiation of this claim for refund as required by the instructions on the reverse side of this form are not being submitted herewith in accordance with the advice contained in a letter dated March 15, 1969 from Mr. Fred W. Tierney, Director, Sales Tax Bureau, copy attached, addressed to Sullivan & Cromwell, Pags., New York, N.Y. in reply to their letter dated March 19, 1969 written on behalf of the New York Clearing House Association. Such detailed data and substantiation is available at Chemical Bank's office at 20 Pine Street, New York, N.Y.

I, Russell E. Schorn, the claimant named above, or partner, officer, or other authorized representative of such claimant, do hereby make application for refund and/or credit of sales or use tax, pursuant to the New York State Tax Law, and certify that all New York State sales and use taxes, if any, for which this claim is filed, have been paid; that no portion of the tax has been refunded or credited to me by any vendor; and that this claim does not include any items for which refund or credit was previously received.

SIGNATURE 	TITLE Sales Tax Officer	DATE May 6, 1970
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SEE INSTRUCTIONS ON THE BACK OF THIS FORM



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

STATE CAMPUS
ALBANY, N. Y. 12226
TELEPHONE 474-2121

JAN 12 1970

SALES TAX BUREAU

FREDERICK W. TIERNEY
DIRECTOR

ADDRESS YOUR REPLY TO
Audit & Review Unit

Chemical Bank
20 Pine Street
New York, New York 10015

Attention Russell F. Schomp, Sr. Tax Officer

Claim for Refund

1965 - 1967
Total Amount of \$1,485,210.87

Gentlemen:

Please be advised that your claim for a refund of sales tax, in the amount of \$1,485,210.87, is hereby being denied in full.

In the opinion of our legal counsel, even though national banks may be exempt from the New York State and local sales and use taxes under the provisions of R.S. 5219, 12 U.S.C. 548 as interpreted in First Agricultural National Bank of Berkshire County vs. State Tax Commission, 392 U.S. 339, 20 L ed. 1138 and Liberty National Bank and Trust Co. vs. Buscaglia, 23 N.Y. 2d 933, State banks are still liable for these taxes. This conclusion is based on the interpretation by the Court of Appeals of Article XVI, Section 4 of the New York State Constitution in Matter of Bank of Manhattan Company, 293 N.Y. 515.

If you agree to the denial, please sign the statement at the bottom of either copy of this letter and mail it to the New York State Sales Tax Bureau, Audit and Review Unit, Building 8, State Campus, Albany, New York 12226.

This determination, denying your claim in full, shall be final and irrevocable unless you apply to the State Tax Commission for a hearing before a Department hearing officer within ninety (90) days from the date of this letter in accordance with the provisions of Section 1139 (b) of the Tax Law.

Very truly yours,

Assistant Chief
Audit and Review Unit

JLB:aa

The denial indicated above is acceptable to me. I hereby withdraw my application for refund filed on December 12, 1969 in the amount of \$1,485,210.

Signature

Date

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STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

SALES TAX BUREAU

FREDERICK W. TIERNEY

DIRECTOR

STATE TAX COMMISSION

STATE CAMPUS
ALBANY, N. Y. 12226

TELEPHONE 474-2121

MAY 20 1970

ADDRESS YOUR REPLY TO
Audit & Review Unit

NORMAN F. GALLMAN, ACTING PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

Chemical Bank
26 Pine Street
New York, New York 10015

Attention: Russell F. Schomp, Sr. Tax Officer

Claim for Refund
1968-1969
Total Amount of \$2,010,149.23

Gentlemen:

Please be advised that your claim for a refund of sales tax, in the amount of \$2,010,149.23, is hereby being denied in full.

In the opinion of our legal counsel, even though national banks may be exempt from the New York State and local sales and use taxes under the provisions of R.S. 5219, 12 U.S.C. 548 as interpreted in First Agricultural National Bank of Berkshire County vs. State Tax Commission, 392 U.S. 339, 20 L. ed. 1133 and Liberty National Bank and Trust Co. vs. Dusecaglia, 23 N.Y. 2d 933, State Banks are still liable for these taxes. This conclusion is based on the interpretation by the Court of Appeals of Article XVI, Section 4 of the New York State Constitution in Matter of Bank of Manhattan Company, 163 N.Y. 515.

If you agree to the denial, please sign the statement at the bottom of either copy of this letter and mail it to the New York State Sales Tax Bureau, Audit and Review Unit, Building 8, State Campus, Albany, New York 12226.

This determination, denying your claim in full, shall be final and irrevocable unless you apply to the State Tax Commission for a hearing before a Department hearing officer within ninety (90) days from the date of this letter in accordance with the provisions of Section 1139 (b) of the Tax Law.

Very truly yours,

Richard M. Beck
Assistant Chief

Audit and Review Unit

SLB:as

The denial indicated above is acceptable to me. I hereby withdraw my application for refund filed on May 6, 1970 in the amount of \$2,010,149.23.

Signature

Date

April 7, 1970

State of New York
Department of Taxation & Finance
Sales Tax Bureau
State Campus
Albany, New York 12226

Attention: Audit and Review Unit

Gentlemen:

Reference is made to your letter of January 12, 1970, copy attached, in which you advise that our claim for refund of sales tax, 1965-1967, in the amount of \$1,435,210.87, is denied in full.

We do not agree to this denial and hereby apply to the State Tax Commission for a hearing before a Department hearing officer in accordance with the provisions of Section 1135 (c) of the Tax Law. We would appreciate an acknowledgement of this application and notice as to when and where such hearing will take place.

Very truly yours,

RFS/ac
Enc.

Senior Tax Officer

C2

CHEMICALBANK

20 Pine Street, New York, NY 10015
Tel. (212) 770-1123

Russell F. Schomp
Senior Tax Officer

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MAY 26 1970

LEGAL - JPH

May 26, 1970

State of New York
Department of Taxation & Finance
Sales Tax Bureau
State Campus
Albany, New York 12226

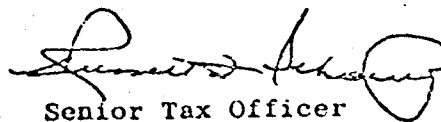
Attention: Audit and Review Unit

Gentlemen:

Reference is made to your letter of May 20, 1970, copy attached, in which you advise that our claim for refund of sales tax, 1968-1969, in the amount of \$2,010,149.23, is denied in full.

We do not agree to this denial and hereby apply to the State Tax Commission for a hearing before a Department hearing officer in accordance with the provisions of Section 1139 (b) of the Tax Law. We would appreciate an acknowledgement of this application and notice as to when and where such hearing will take place.

Very truly yours,


Senior Tax Officer

RFS/ac
Enc.