

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

G & R INC.

For a Redetermination of a Deficiency or  
a Refund of Sales Taxes  
Taxes under Article(s) 28&29 of the  
Tax Law for the (Year(s) 8/31/65,  
11/30/65, 2/28/66, 5/31/66, 8/31/66, 11/30/66

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

State of New York  
County of Albany

Claire A. Draves, 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 November, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Joseph F. Wiener (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Joseph F. Wiener  
170 Broadway  
New York, New York  
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

30th day of November, 1970

Just Wright

Claire A. Draves

STATE OF NEW YORK  
STATE TAX COMMISSION

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of

G & R INC.

For a Redetermination of a Deficiency or  
a Refund of Sales Taxes

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Tax Law for the (Year(s) 8/31/65,

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she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 30th day of November, 1970, she served the within  
Notice of Decision (or Determination) by (certified) mail upon G & R INC.

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

G & R Inc.  
21 Smith Street  
Brooklyn, New York

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

30th day of November, 1970

James H. Wright

Claire A. Draves

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
G & R INC.	:	DETERMINATION
for Revision of a Determination of	:	
Sales Taxes under Articles 28 and 29	:	
of the Tax Law for the periods ended	:	
August 31, 1965, November 30, 1965,	:	
February 28, 1966, May 31, 1966,	:	
August 31, 1966 and November 30, 1966	:	

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Vendor applied for a revision of a determination of additional Sales Tax under Articles 28 and 29 of the Tax Law for the periods ended August 31, 1965, November 30, 1965, February 28, 1966, May 31, 1966, August 31, 1966 and November 30, 1966. A formal hearing was held in the offices of the State Tax Commission in the City of New York on November 14, 1967 and continued on November 24, 1967. The vendor was represented by Joseph F. Weiner, C.P.A.

FINDINGS OF FACT

1. The issue in this case is whether the taxpayer, who sells on an installment basis should be allowed to report and remit sales tax in proportion to amounts collected, rather than at the time of the sale.
2. Vendor operates a retail clothing and case goods furniture store, doing a good deal of business on an installment basis.
3. Vendor prepared his New York State Tax Returns by reporting only actual monies received on installment as sales. Taxpayer accrues 5% of these monies as sales tax.
4. An audit of the vendor's returns for the periods in question resulted in a notice of determination and demand for additional tax on installment sales dated April 5, 1967, in the amount of \$4,557.82 including penalty and interest. The adjustment was based upon total sales for the above periods.

5. Vendor filed the equivalent of an application for revision of the above determination on April 6, 1967.

DETERMINATION

A. Section 1132(d) of the Tax Law authorizes the State Tax Commission to provide by regulation that the tax, upon receipts from sales on the installment plan, may be paid on the amount of each installment and upon the date when such installment is due. The State Tax Commission has not provided such a regulation. Therefore, the application for revision is denied and the determination is sustained.

DATED: Albany, New York

*November 27, 1970*

STATE TAX COMMISSION

  
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