

STATE OF NEW YORK
STATE TAX COMMISSION

Minit Car Wash
Sales Use
28429
1971

In the Matter of the Petition

of

MINIT CAR WASH

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the (Year(s) 8/1/65 -
2/28/67

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

State of New York
County of Albany

Linda Wilson, 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 1st day of March, 1971, she served the within Notice of Decision (or Determination) by (certified) mail upon MINIT CAR WASH (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Minit Car Wash
2165 Delaware Avenue
Buffalo, New York 14216
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

1st day of March, 1971

Joyce S. Van Ratten

Linda Wilson

STATE OF NEW YORK
STATE TAX COMMISSION

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Linda Wilson, 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 1st day of March, 1971, she served the within
Notice of Decision (or Determination) by (certified) mail upon JOHN J.

BEYER, JR., ESQ. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: John J. Beyer, Jr., Esq.
920-928 Rand Bldg.
Buffalo, New York 14203

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

1st day of March, 1971.

George S. [Signature]
Linda Wilson

**BUREAU OF LAW
MEMORANDUM**

TO: Benjamin Sheber, Sales Tax Bureau
FROM: James Scott
SUBJECT: Transfer of File
Minit Car Wash

✓
8-7/6/71

The taxpayer in the foregoing matter has failed to institute an Article 78 proceeding within the statutory period of time.

Said file is herewith returned for further administrative disposition.

Associate Attorney

JS:lk
Enc.
cc: Edward Rook

July 2, 1971

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
MINIT CAR WASH	:	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 from August	:	
1, 1965 through February 28, 1967	:	

Applicant, Minit Car Wash, 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 from August 1, 1965 through February 28, 1967. (File # 90752760) A formal hearing was held before Francis X. Boylan, Hearing Officer, at the offices of the State Tax Commission, 65 Court Street, Buffalo, New York on October 15, 1969 at 1:30 P.M. Applicant, Minit Car Wash, appeared by Palmer, Heffernan, Wickser & Beyer (John M. Garrity, Esq. of Counsel). The Sales Tax Bureau appeared by Edward H. Best, Esq. (Alexander Weiss, Esq. of counsel).

FINDINGS OF FACT

1. On September 1, 1967 the Sales Tax Bureau issued a notice of determination and demand for payment of sales and use taxes due against applicant, Minit Car Wash, imposing New York State and Erie County sales tax upon additional purchases by it for the period from August 1, 1965 to February 28, 1967 upon the grounds that solvent purchased to wash automobiles, towels purchased to dry automobiles, repairs made by dealers to automobiles damaged while being washed, and other miscellaneous purchases were subject to sales tax and accordingly assessed additional sales tax, penalties and/or interest of \$252.01.

2. Applicant, Minit Car Wash, was in the business of washing automobiles during the period from August 1, 1965 through February 28, 1967. When a car was washed the sales tax was added to the cost of the wash.

3. When an automobile was damaged in the course of the car wash, applicant, Minit Car Wash, would prepare a purchase order to an automobile dealer and give it to the customer. The customer would take his car to the dealer and have the damage repaired. The automobile dealer would then bill applicant, Minit Car Wash, for the cost of the repairs. It furnished the automobile dealers with exemption certificates and was not charged sales tax by them. The cost of repairs for the period in issue was \$1,958.02.

4. When an automobile was washed at applicant, Minit Car Wash's place of business a solvent, which was mixed with water creating a foam, was brushed onto the automobile. The solvent and dirt were then washed off with water, a coat of wax applied and a final rinse given. Then the automobile was dried by blowers and towels. The cost of the solvents for the period in issue was \$1,834.99. The cost of towels for the period in issue was \$338.80.

5. That in addition to the foregoing, applicant, Minit Car Wash, during the aforesaid taxable period purchased \$1,313.65 in miscellaneous equipment and supplies which purchases were conceded by it to be subject to Sales Tax.

CONCLUSIONS OF LAW

A. That since the solvents used in washing automobiles and the towels used in drying automobiles by applicant, Minit Car Wash, during the period from August 1, 1965 through February 28, 1967 did not become a physical component part of the automobiles upon which the washing services were performed, therefore the solvents and towels purchased by it constituted retail sales subject to sales tax in accordance with the meaning and intent of Section 1101(b)(4)(i) of the Tax Law.


B. That since the repairs made by automobile dealers to automobiles damaged by applicant, Minit Car Wash, in the washing process during the period from August 1, 1965 through February 28, 1967 constituted the repairing of tangible personal property not held for sale in the regular course of business, therefore the cost of such repairs paid for by it was subject to sales tax in accordance with the meaning and intent of Section 1105(c)(3) of the Tax Law.

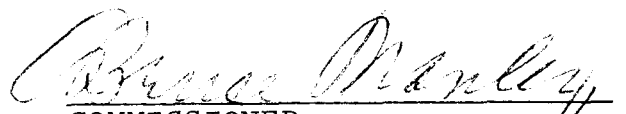
C. That the application of Minit Car Wash is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes dated September 1, 1967 is sustained.

DATED: Albany, New York

STATE TAX COMMISSION

March 1, 1971.


COMMISSIONER


COMMISSIONER


COMMISSIONER