

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BELMONT EQUIPMENT & RENTAL CO., INC.

**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 October 27, 1965  
through June 8, 1967

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 19th day of September , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Belmont Equipment &  
Rental Co., Inc. (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: Belmont Equipment & Rental Co., Inc.  
P.O. Box 74  
Belmont, New York 14813  
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

19th day of September , 1972

Lynn Wilson

Martha Funaro

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

BELMONT EQUIPMENT & RENTAL CO., INC.

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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 October 27, 1965  
through June 8, 1967

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 19th day of September , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Percival C. Bixby &  
Company (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Percival C. Bixby & Company  
2500 Main Street  
Buffalo, New York 14202

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

19th day of September , 1972.

Lynne Wilson

Martha Funaro



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

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

BUILDING 9, ROOM 214A  
STATE CAMPUS  
ALBANY, N. Y. 12227

AREA CODE 518  
457-2655, 6, 7

STATE TAX COMMISSION •  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

**Dated:** Albany, New York

**September 19, 1972**

**Belmont Equipment & Rental Co., Inc.**  
**P.O. Box 74**  
**Belmont, New York 14813**

**Gentlemen:**

Please take notice of the **DETERMINATION** of  
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **sections 1243 & 1138**  
the Tax Law any proceeding in court to review an adverse decision  
must be commenced within **4 Months** after  
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 relat-  
ing 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

cc Petitioner's Representative  
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
BELMONT EQUIPMENT AND RENTAL CO., INC.	:	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 October 27, 1965 through	:	
June 8, 1967.	:	

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Belmont Equipment and Rental Co. 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 October 27, 1965 through June 8, 1967.

The case was submitted for decision on the material contained in the file.

ISSUE

Where the taxpayer paid sales taxes for the period of October 27, 1965 through June 8, 1967, on equipment used solely for leasing was a refund claim timely filed?

FINDINGS OF FACT

1. The taxpayer, Belmont Equipment and Rental Co. Inc., timely filed New York State sales and use tax returns for the period October 27, 1965 through June 8, 1967.

2. A denial of a refund claim for sales tax for the period in issue was mailed on September 8, 1970, to the taxpayer under I.D. No. 16-0873935.

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

4. On July 27, 1970, the taxpayer filed a claim for refund of sales tax erroneously paid on equipment purchased during the period of October 27, 1965 through June 8, 1967, which was used solely for rental.

5. One item of purchase on June 8, 1967, of \$2,300.00 with sales tax of \$46.00 was covered by a return dated September 19, 1967.

CONCLUSIONS OF LAW

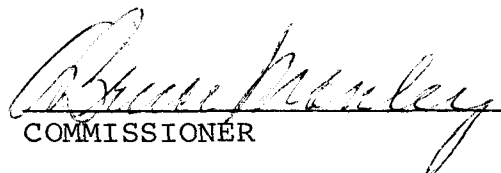
A. The claims for refund were filed more than three years after the date of payment, except for the purchase of June 8, 1967, and are barred by the Statute of Limitations.

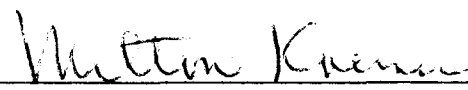
B. All of the claims for refund are denied except for the amount of \$46.00 sales tax paid on September 19, 1967, which shall be refunded with interest pursuant to the Tax Law.

DATED: Albany, New York  
September 19, 1972

STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER