

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

XEROX CORPORATION

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ Period ~~(s)~~ :
August 23, 1969.

State of New York
County of Albany

Violet Walker , 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 14th day of June , 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Xerox Corporation

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

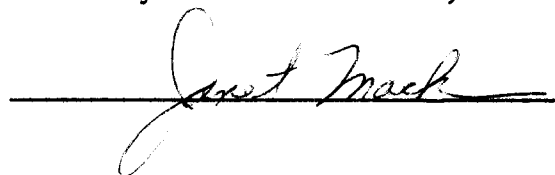
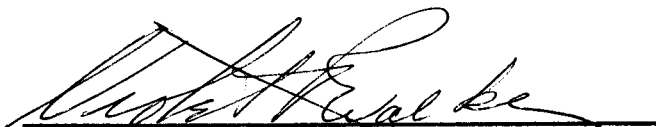
Xerox Corporation
Stamford, Connecticut 06904

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 Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~the~~ 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

14th day of June , 1977.



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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 14th day of June, 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Sterling L. Weaver

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Sterling L. Weaver, Esq.
Nixon, Hargrave, Devans & Doyle
Lincoln First Tower
Rochester, New York 14603

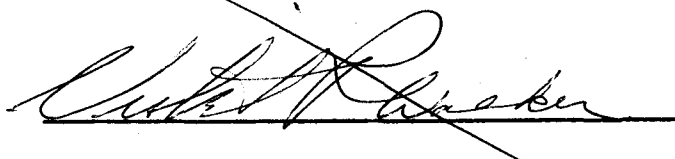
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (representative
of the) 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

14th day of June, 1977.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 14, 1977

TELEPHONE: (518) **457-1723**

**Xerox Corporation
Stamford, Connecticut 06904**

Gentlemen:

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.

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. They
will be referred to the proper party for reply.

Very truly yours,

**Paul B. Coburn
Supervising Tax
Hearing Officer**

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

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 August 23, 1969.

Applicant, Xerox Corporation, Stamford, Connecticut 06904, 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 August 23, 1969. (File No. 001528).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on October 19, 1976 at 10:00 A.M. Applicant appeared by Sterling L. Weaver, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether Monroe County compensating use tax is due on the purchase of an aircraft by the applicant, Xerox Corporation.

FINDINGS OF FACT

1. On June 30, 1971, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant, Xerox Corporation, for the period August 23, 1969 in the amount of \$40,101.96, plus penalty and interest of \$19,998.75, for a total of \$60,100.71. On October 28, 1971, the Income Tax Bureau reduced the late charges to \$9,190.03, and thus, the total sum due was \$49,291.99.

2. On August 23, 1969, applicant, Xerox Corporation, took delivery from the North American Rockwell Corp., St. Louis, Missouri, of an aircraft known as a "Sabreliner." The purchase price was \$1,336,732.00. Delivery was made at the Westchester County Airport, White Plains, New York, where applicant leased a hanger and performed maintenance and service on its planes. The State sales tax of 3%, in the amount of \$40,101.96, was paid upon purchase.

3. On August 23, 1969, following delivery, applicant, Xerox Corporation, flew the aircraft to the Monroe County Airport to pick up additional crew members. After a brief stopover, the plane continued on to St. Louis, Missouri, for flight training purposes.

4. Applicant, Xerox Corporation, has part of its manufacturing operation in Monroe County, employing some 12,000 people. Its use of Monroe County Airport comprises 15% of the time in an operation that is not only statewide but national in scope, in transporting its personnel and customers.

5. Monroe County imposed a compensating use tax of three percent (3%) during the period in issue. This is imposed on the use within the county of any personal property purchased at retail, unless such property was or would be subject to a Monroe County sales tax.

6. Applicant, Xerox Corporation, cooperated with the Sales Tax Bureau and acted in good faith.

CONCLUSIONS OF LAW


A. That the purchase of a Sabreliner aircraft by the applicant, Xerox Corporation, and the use thereof in Monroe County in the period in issue for its personnel and customers, is subject to the imposition of a compensating use tax according to the meaning and intent of sections 1110 and 1210 of the Tax Law.

B. That the application of Xerox Corporation is granted to the extent that the interest, in excess of the minimum interest, and the penalty imposed pursuant to section 1145(a) of the Tax Law are waived; that the Sales Tax Bureau is directed to accordingly modify the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued June 30, 1971; and that except as so granted, the application is in all other respects denied.

DATED: Albany, New York
June 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER