

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RONALD VOLPE (PURCHASER) : AFFIDAVIT OF MAILING
d/b/a COIN GALLERY :
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 ~~XXXX(s)~~ Period(s) :
November 30, 1967 to October 29, 1970.

State of New York
County of Albany

Bruce Batchelor , 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 April , 1977, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Ronald Volpe (Purchaser)
d/b/a Coin Gallery ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Ronald Volpe (Purchaser)
d/b/a Coin Gallery
8725 Fourth Avenue
Brooklyn, New York 11209
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)~~
~~XXXX~~ 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 April , 1977.

Bruce Batchelor

Just Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
RONALD VOLPE (PURCHASER)
d/b/a COIN GALLERY

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ or Period ~~(s)~~ :
November 30, 1967 to October 29, 1970.

State of New York
County of Albany

Bruce Batchelor , 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 April , 19 77, ~~she~~ served the within
Notice of Determination by (~~certified~~) mail upon Alfred G. Bastone

(representative of) the petitioner in the within proceeding,

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

Alfred G. Bastone, Accountant
8035 Harbor View Terrace
Brooklyn, New York 11209

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 April , 1977.

Bruce Batchelor

Janet Mack



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

April 14, 1977

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

Ronald Volpe (Purchaser)
d/b/a Coin Gallery
8725 Fourth Avenue
Brooklyn, New York 11209

Dear Mr. Volpe:

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

Please take further notice that pursuant to
Section(s) **1138 and 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 S. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
RONALD VOLPE (PURCHASER)	:	DETERMINATION
d/b/a COIN GALLERY	:	
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 November 30, 1967 to	:	
October 29, 1970.	:	

Applicant, Ronald Volpe (Purchaser), d/b/a Coin Gallery, 8725 Fourth Avenue, Brooklyn, New York 11209, filed an application for revision of a determination or for a refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period November 30, 1967 to October 29, 1970. (File No. 00235).

A formal hearing was held before Julius E. Braun, Hearing Officer at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 26, 1976, at 9:15 A.M. Applicant appeared by Alfred G. Bastone, accountant. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Alexander Weiss, Esq. of counsel).

ISSUE

Whether applicant, the purchaser of a business in a bulk sales transaction, is liable for sales taxes determined to be due from seller of said business for periods prior to date of sale.

FINDINGS OF FACT

1. On April 19, 1971, as the result of an audit, the Sales Tax Bureau issued a Notice and Demand for Payment of Sales and Use Taxes Due against applicant, Ronald Volpe (purchaser), d/b/a Coin Gallery, for the period November 30, 1967 to October 29, 1970 in the amount of \$41,572.07, plus interest of \$6,064.59, for a total of \$47,636.66. A Notice of Assessment Review cancelled \$41,136.66, leaving a balance due of \$6,500.00. A Notice and Demand for Payment of Sales and Use Taxes Due was also issued on April 19, 1971 in the sum of \$47,636.66 to Richard Solomone, the seller d/b/a Coin Gallery.

2. On October 30, 1970 the Sales Tax Bureau received Notification of Sale Transfer or Assignment in Bulk, by registered mail from the applicant, Ronald R. Volpe's attorney, concerning the sale and purchase of a coin and stamp business, scheduled for October 26, 1970 for \$6,500.00 from Richard Solomone, d/b/a Coin Gallery.

3. No documentary or other sufficient evidence was presented by the applicant, Ronald R. Volpe, nor did the seller, Richard Solomone, during an audit verify alleged nontaxable sales totaling \$827,252.36. The first two periods in issue were withdrawn by the Sales Tax Bureau because of the statute of limitations. The tax due was reduced to \$6,500.00 which was the purchase price and the maximum permitted by section 1141(c) of the Tax Law.

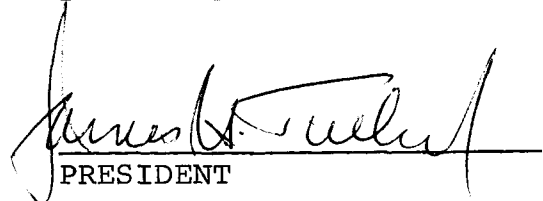
CONCLUSIONS OF LAW

A. That the applicant-purchaser, Ronald R. Volpe, is personally liable for the payment of any sales and use taxes determined to be due to New York State from the seller, said liability not to exceed the purchase price of the business assets sold, according to the meaning and intent of section 1141(c) of the Tax Law.

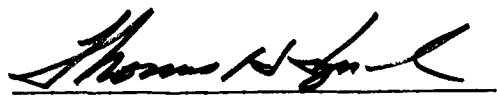
B. That the application of Ronald R. Volpe is denied and the Notice and Demand for Payment of Sales and Use Taxes Due issued April 19, 1971, as amended by the Notice of Assessment Review is sustained.

DATED: Albany, New York
April 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER