

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCIS E. SLOCUM

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 ~~XXXXXX~~ Period ~~(X)~~ :
November 1, 1975.

State of New York
County of Albany

John Huhn , 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 13th day of December , 1977, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Francis E. Slocum

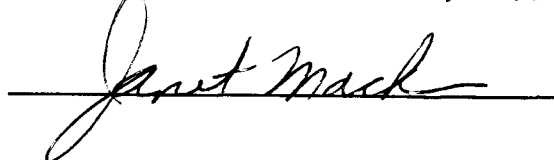
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Francis E. Slocum
Box 274
Allentown, New York 14707

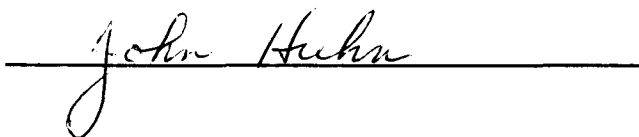
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~
~~XXXXXX~~) petitioner herein and that the address set forth on said wrapper is the
last known address of the (~~representative of~~) petitioner.

Sworn to before me this

13th day of December , 1977.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

December 13, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. Francis E. Slocum
Box 274
Allentown, New York 14707

Dear Mr. Slocum:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1139 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chyrowaty
Hearing Examiner

cc: ~~Petitioner's Representative~~

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application

of

FRANCIS E. SLOCUM

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 November 1, 1975.

Applicant, Francis E. Slocum, Box 274, Allentown, New York
14707, 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 November 1, 1975.

A small claims hearing was held before Joseph Chyrywaty,
Hearing Officer, at the offices of the State Tax Commission, State
Office Building, Buffalo, New York, on September 15, 1976, at 1:15 P.M.
Applicant appeared pro se. The Sales Tax Bureau appeared by
Peter Crotty, Esq. (Michael Weinstein, Esq., of counsel).

ISSUE

Did the purchase of a double-wide mobile home constitute a
capital improvement to real property, and thereby entitle the
applicant a refund for sales tax paid on said purchase?

FINDINGS OF FACT

1. On November 1, 1975, applicant, Francis E. Slocum, purchased a double-wide mobile home from Miller Sales and Service, a mobile home dealer, and paid a New York State and local sales tax of \$798.00 on this purchase.

2. On December 15, 1975, applicant, Francis E. Slocum, filed an application for credit or refund of state and local sales or use tax in the sum of \$798.00. He made this claim on the grounds that the purchase of this double-wide mobile home constituted a capital improvement to real property. This double-wide mobile home consisted of two twelve-foot wide sections which, when joined together, made a complete house. The claim was denied.

3. The dealer, Miller Sales and Service, delivered both sections of the home to real property owned by applicant, Francis E. Slocum. The dealer joined both sections and permanently affixed the home, by means of bolting and nailing, to an existing foundation.

4. Applicant, Francis E. Slocum, was responsible for the connection of the water, electrical and sewage utility services.

CONCLUSIONS OF LAW

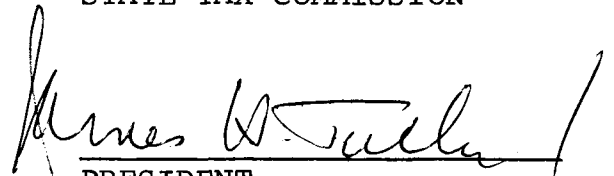
A. That the purchase by the applicant, Francis E. Slocum, of a double-wide mobile home permanently installed, by the mobile

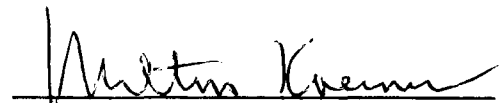
home dealer, on a foundation on the applicant's property did constitute a capital improvement to real property and that such purchase is not subject to the New York State sales or compensating use tax.

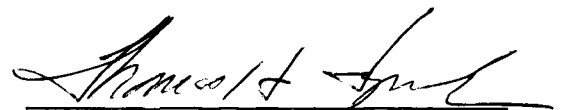
B. That the application of Francis E. Slocum is granted and the Sales Tax Bureau is directed to refund the sum of \$798.00 together with such interest as may be lawfully owing.

DATED: Albany, New York
December 13, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER