

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
DORA B. RINGLAND

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) ~~or~~ Period(s) 1974. :

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~she~~ 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~~ she served the within

Notice of Determination by ~~(certified)~~ mail upon Dora B. Ringland

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Dora B. Ringland
5064 Granger Place
Rushville, New York 14554

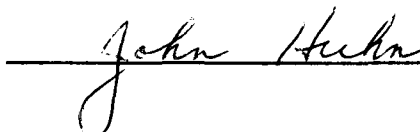
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

13th day of December , 1977.







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

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

December 13, 1977

Dora B. Ringland
5064 Granger Place
Rushville, New York 14554

Dear Ms. Ringland:

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) **1138 & 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 Chyrywaty
Hearing Examiner

cc: ~~Prisoners Representation~~

Taxing Bureau's Representative

STATE TAX COMMISSION

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on August 11, 1977 at 1:15 P.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Richard Kaufman, Esq., of counsel).

ISSUE

Whether applicant was entitled to a refund of sales tax paid on purchases of tangible personal property used in the renovation of a house designated as a "landmark".

FINDINGS OF FACT

1. On October 23, 1973, applicant, Dora B. Ringland, purchased from a school district, certain real property in the Town of Gorham, Ontario County, New York.

The premises were conveyed subject to certain conditions, restrictions and limitations which provided, in pertinent part, that the applicant could not demolish the house or make alterations, physical or structural changes to the exterior of the house, change its color or surfacing, or add an additional structure or sign without the prior written consent of the Landmark Society of Western New York, Incorporated. (Although the house had apparently been designated as a "landmark", the origin or precise meaning of this designation does not appear in the record.)

2. Subsequent to this purchase, applicant renovated the house and later resided in it.

3. Applicant contended that in the year 1974, she paid a total of \$581.66 in sales tax on materials purchased for the renovation of the house and filed an application for refund in said amount on March 28, 1975. This application was denied by the Sales Tax Bureau on the grounds that the materials purchased were tangible personal property and were thus taxable at the time of purchase.

4. Applicant claimed that she was entitled to the refund because she had been advised by the Landmark Society of Western New York, Incorporated, that those purchases made for the improvement of a landmark were exempt from sales tax.

CONCLUSIONS OF LAW

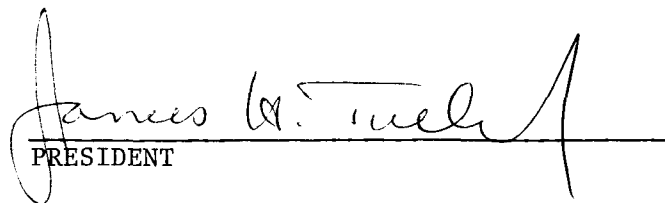
A. That the materials purchased by the applicant for renovation of a landmark were not purchases by an organization exempt from the imposition of sales tax as defined in section 1116(a)(5) of the Sales Tax Law.

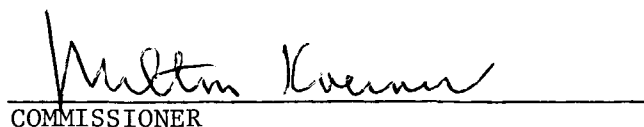
B. That the purchases by the applicant constituted retail sale to her of tangible personal property as defined in section 1101(b)(4) of the Tax Law and were, therefore, subject to the imposition of sales tax under section 1105(a) of the Tax Law.

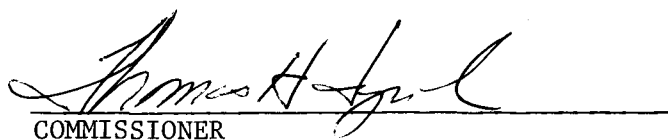
C. That the application of Dora B. Ringland for refund of sales tax is denied.

DATED: Albany, New York
December 13, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER