

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

RECORD RETENTION & RETRIEVAL CORP.

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)~~ Period ~~(x)~~ :

December 1, 1969 through November 30, 1970.

AFFIDAVIT OF MAILING

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 4th day of March , 19 77, ~~she~~ served the within
Notice of Determination by (~~certified~~) mail upon Record Retention &
Retrieval Corp. (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Record Retention & Retrieval Corp.
200 East Merrick Road
Valley Stream, New York 11580

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

4th day of March , 1977

Bruce Batchelor

Janet Mack



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

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

TA-1.12 (1/76)

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
RECORD RETENTION & RETRIEVAL CORP. : 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 December 1, 1969 through :
November 30, 1970. :

Applicant, Record Retention and Retrieval Corp., located at 200 East Merrick Road, Valley Stream, New York 11580, 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 December 1, 1969 through November 30, 1970. (ID No. 11-2203070).

A small claims hearing was held before Joseph Marcus, Hearing Officer, on August 18, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The applicant appeared by Paul Abrams, President. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Irwin A. Levy, Esq. of counsel).

ISSUES

I. Whether applicant, Record Retention and Retrieval Corp., is entitled to a refund of sales and/or use taxes paid on machinery or equipment used in the processing of tangible personal property for sale.

II. Is the applicant entitled to a refund of sales and/or use taxes paid on equipment used to store tangible personal property for sale?

FINDINGS OF FACT

1. During the period December 1, 1969 through November 30, 1970, applicant, Record Retention and Retrieval Corp., a vendor registered with New York State under Article 28 of the Tax Law (ID No. 11-2203070), purchased certain machinery and equipment at a cost of \$67,897.84.

2. Applicant paid sales and/or use taxes on the aforesaid purchases and claimed credit for said taxes on New York State sales tax returns filed for the period December 1, 1969 through November 30, 1970.

3. The Sales Tax Bureau disallowed the sales and/or use tax credits claimed on returns and issued a Notice of Determination and Demand, dated July 20, 1971, for the amount of credits claimed, plus penalty and interest (No. 90,714,484). Upon payment of the assessment, the applicant filed an Application for Refund (Claim No. 5273) on August 14, 1972. Such application was denied, in full, by the Sales Tax Bureau on January 23, 1973.

4. The applicant filed an Application for Hearing to Review Determination on April 23, 1973.

5. Applicant is in the business of reproducing records, supplied by its customers, on microfilm. Except for a small fraction thereof used for purposes of storage, purchased at a cost of \$449.49, the machinery and equipment upon which the tax was paid and

which the applicant deems exempt under section 1115(a)(12) of the Tax Law was used to process the microfilm. The processed film was, in all cases, sold to customers. In some instances the film was delivered to the customers and in others, the film was stored by the applicant.

CONCLUSIONS OF LAW

A. That applicant is entitled to a refund of sales and/or use taxes paid in the amount of \$3,122.93 on machinery or equipment used to process tangible personal property for sale in accordance with the meaning and intent of section 1115(a)(12) of the Tax Law. In connection therewith, applicant is entitled to a refund of penalties and interest paid on Notice of Determination and Demand (No. 90,714,484) applicable to the sales and/or use taxes on such exempt machinery or equipment.

B. That applicant is not entitled to a refund of sales and/or use tax paid on equipment used to store tangible personal property in the amount of \$20.85 tax, plus penalties and interest.

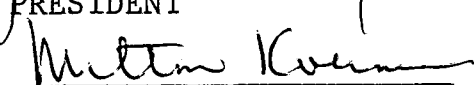
C. That the application of Record Retention and Retrieval Corp. is granted to the extent indicated above in conclusion A. The Sales Tax Bureau is hereby directed to refund such amount together with such additional interest as may be lawfully owing, and except as so granted, the application is in all other respects denied.

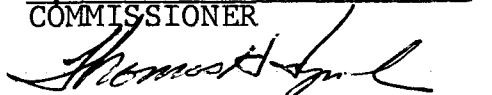
DATED: Albany, New York

March 4, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER