

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FREDRIC P. RECKSIEK

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)~~ :
September 1, 1974 through November 30, 1974.

State of New York
County of Albany

Bruce Batchelor , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 8th day of April , 1977, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Fredric P. Recksiek

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Fredric P. Recksiek
1 Linwood Lane
Fort Salonga, New York 11768

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)~~
~~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

8th day of April , 1977.

Bruce Batchelor

Janet Much



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 8, 1977

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

Mr. Fredric P. Recksiek
1 Linwood Lane
Fort Salonga, New York 11768

Dear Mr. Recksiek:

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

Please take further notice that pursuant to
Section(s) **1139 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,

Frank J. Puccia

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

In the Matter of the Application :
of :
FREDRIC P. RECKSIEK :
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 September 1, 1974 :
through November 30, 1974. :

DETERMINATION

A small claims hearing was held before Joseph A. Milack, Small Claims Hearings Officer, on October 18, 1976, at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Applicant, Fredric P. Recksiek, purchased an automobile on October 11, 1974 from Bill Pratt Motors for the sum of \$1,600.00 plus sales tax of \$112.00, making full payment by means of a

personal check. Upon taking possession, he discovered that the automobile was defective and stopped payment on said check. Thereafter, Bill Pratt Motors agreed to accept \$1,400.00 from applicant as payment of the automobile, which was to include the applicable sales tax, thereby making an allowance for the defect in the automobile. No formal agreement or adjusted sales invoice was rendered to reflect the aforesaid settlement.

2. Applicant, Fredric P. Recksiek, contended that although the sales price of the automobile was reduced, the sales tax charged thereon was not, thereby resulting in an overpayment of said tax.

3. In the absence of an adjusted invoice or other documentary evidence indicating the actual sales tax paid on the sale after the adjustments, it must be concluded that applicant, Fredric P. Recksiek, has not sustained the burden on proof necessary to substantiate his claim.

4. Applicant, Fredric P. Recksiek's claim for refund is denied.

DATED: Albany, New York
April 8, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER