

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

JOHN B. GORMAN

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)~~ :
12/31/74.

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 9th day of February , 1977, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon John B. Gorman
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Rev. John B. Gorman
775 Main Street
Poughkeepsie, NY 12603
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

9th day of February , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

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

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 9, 1977

TELEPHONE: (518) 457-1723

Rev. John B. Gorman
775 Main Street
Poughkeepsie, NY 12603

Dear Rev. Gorman:

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

Please take further notice that pursuant to
Section(s) **1139 & 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
Supervisor of
Small Claims Hearings

Enc.

cc: ~~Petitioner's Representative:~~

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, State Campus, Albany, New York, on July 13, 1976, at 9:15 A.M. Applicant appeared by pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Richard Kaufman, Esq. of counsel).

ISSUE

Is a member of the clergy entitled to a refund of sales tax paid on the purchase of a motor vehicle?

FINDINGS OF FACT

1. On December 31, 1974, applicant, Rev. John B. Gorman, purchased a car from a New York car agency and paid a sales tax of \$122.78 on the transaction.
2. On January 20, 1975, applicant, Rev. John B. Gorman, filed an "Application for Credit or Refund of State and Local Sales or Use Tax" in the amount of \$122.78 for sales tax paid on the purchase of a car.

3. Applicant, Rev. John B. Gorman, is a member of the Missionary Order of LaSalette and needed the permission of that order to purchase the car.

4. Applicant, Rev. John B. Gorman, borrowed the money to purchase the car from his sister. He repaid the loan out of his monthly stipend.

5. Applicant, Rev. John B. Gorman, registered the car in his name and maintained the insurance on the vehicle.

6. In July, 1975, the applicant transferred the ownership of the vehicle to the missionaries of LaSalette.

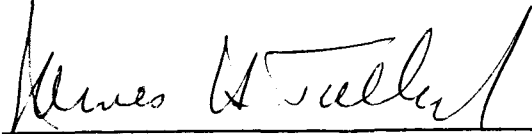
CONCLUSIONS OF LAW

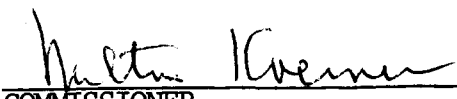
A. That the purchase of the vehicle by applicant, Rev. John B. Gorman, is a retail sale as defined in section 1101(b)(4) of the Tax Law and that the sales tax so imposed is in accordance with section 1105 of the Tax Law.

B. That the application of Rev. John B. Gorman is denied and the refund denial dated March 17, 1975 is sustained.

DATED: Albany, New York
February 9, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER