

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GOLD SEAL VINEYARDS, INC.

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 and 29 of the :
Tax Law for the Year ~~XXXXXX~~ 1975 :
~~XXXXXX~~

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 8th day of April , 1977, she served the within
Notice of Determination by (~~certified~~) mail upon Gold Seal
Vineyards, Inc. (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Gold Seal Vineyards, Inc.
Pulteney Road
Hammondsport, New York 14840

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

Sworn to before me this

8th day of April , 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 8th day of April , 1977 , she served the within
Notice of Determination by (~~certified~~) mail upon Gold Seal
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Paul G. Sessler, CPA
Berman & Sessler, P. C.
350 Fifth Avenue
New York, New York 10001
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

8th day of April , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227
April 8, 1977

ADDRESS YOUR REPLY TO

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

Gold Seal Vineyards, Inc.
Pulteney Road
Hammondsport, New York 14840

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,

Enc.

Frank J. Puccia
Supervisor of Small Claims Hearings

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

A small claims hearing was held October 20, 1976 at 9:15 A.M. at the offices of the State Tax Commission, Governmental Civic Center, Binghamton, New York, before Harry Huebsch, Hearing Officer. The applicant appeared by Paul Sessler, C.P.A. The Sales Tax Bureau appeared by Peter Crotty, Esq., (James Scott, Esq. of counsel).

ISSUES

I. Is applicant entitled to a refund of sales tax which was paid under a lease agreement for an automatic sprinkler system?

II. Is applicant entitled to a refund of sales tax paid on the purchase of a truck?

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. Applicant, Gold Seal Vineyards, Inc., entered into a lease agreement for the use of an automatic sprinkler system which was installed in the premises owned by the applicant.

2. Applicant, Gold Seal Vineyards, Inc., purchased a truck in the year 1971.

3. On November 17, 1975, applicant filed an Application for Credit or Refund of New York State and Local Sales or Use Tax in the amount of \$8,096.15. Of this amount, \$5,441.76 was for the sprinkler system, and \$2,654.39 was for the truck.

4. That the sprinkler system remained tangible personal property in that title remained vested in the lessor and applicant, Gold Seal Vineyards, Inc., was not entitled to a refund of sales tax paid under an agreement to lease said tangible personal property since such lease payments are taxable in accordance with section 1105(a) of the Tax Law.

5. That the Application for Credit or Refund of State and Local Sales or Use Tax paid on the purchase of the truck was not filed timely (within three years after the tax was payable) in accordance with section 1139(a) of the Tax Law.

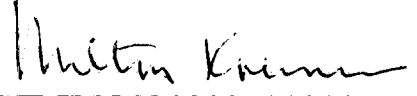
6. That the application of Gold Seal Vineyards, Inc. is denied.

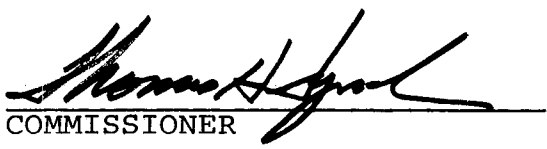
DATED: Albany, New York

April 8, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER