

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MYRIAM NAVARRETE GERMAIN

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)~~ Period(s) :
December 9, 1974

State of New York
County of Albany

John Huhn , 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 29th day of September , 1977 , she served the within
Notice of Determination by (~~certified~~) mail upon Myriam Navarrete
Germain

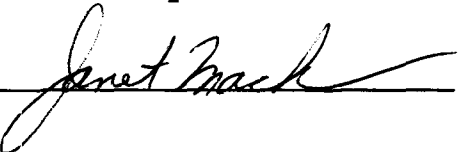
(~~representative of the~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Myriam Navarrete Germain
14 Dorothea Street
Commack, Long Island, NY 11725

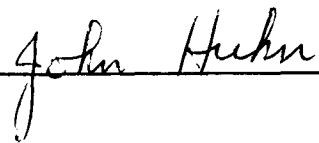
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of the~~
~~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

29th day of September , 19 77





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MYRIAM NAVARRETE GERMAIN

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)~~ Period(s) :
December 9, 1974

State of New York
County of Albany

John Huhn, 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 29th day of September, 1977, she served the within
Notice of Determination by (~~certified~~) mail upon David Cintron
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: David Cintron
14 Dorothea Street
Commack, Long Island, NY 11725
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

29th day of September, 1977.

Janet Mack

John Huhn



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227
September 29, 1977

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

Myriam Navarrete Germain
14 Dorothen Street
Commack, Long Island, NY 11725

Dear Mrs. Germain:

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 Chyrynty
Joseph Chyrynty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
MYRIAM NAVARRETE GERMAIN : 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 9, :
1974. :

Applicant, Myriam Navarrete Germain, 14 Dorothea Street,
Commack, Long Island, New York 11725, 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 9,
1974 (File No. 15343).

A small claims hearing was held before Harry Huebsch, Hearing
Officer, at the offices of the State Tax Commission, Two World
Trade Center, New York, New York, on March 29, 1977 at 1:15 P.M.
Applicant appeared by David Cintron. The Sales Tax Bureau appeared
by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether sales tax was due on the purchase of an automobile which
was subsequesntly exported to a foreign country.

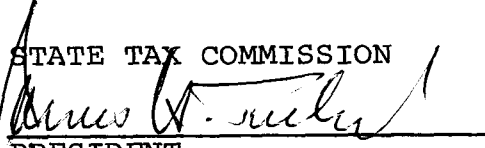
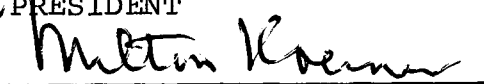
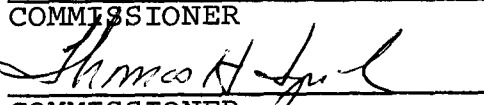
FINDINGS OF FACT

1. While a resident of New York, applicant purchased an automobile and made full payment on it including sales tax of \$250.25 on December 9, 1974.
2. On December 11, 1974, applicant's husband drove the automobile from the dealer's place of business to a ship loading-dock. The automobile was subsequently shipped to applicant's brother-in-law in Chile.
3. Applicant filed an application for refund of the state and local sales tax paid on the purchase of the automobile. Applicant contended that the automobile was purchased for export and, therefore, exempt from the imposition of the sales and use tax. The application was denied by the Sales Tax Bureau on April 6, 1976.

CONCLUSIONS OF LAW

- A. That since applicant, Myriam Navarrete Germain, was a resident of New York State at the time of the purchase of the automobile and took possession of said vehicle in New York State, sales tax was due on the purchase of the automobile in accordance with the meaning and intent of section 1105(a) of the Tax Law.
- B. That the application of Myriam Navarrete Germain is denied.

DATED: Albany, New York
September 29, 1977

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER