

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ACE PRECISION ENGRAVING CORP.

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 ~~XXXXXX~~ Period(s) :  
December 1, 1971 through November 30, 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 11th day of October , 19 77, She served the within  
Notice of Determination by ~~XXXXXXXXXX~~ mail upon Ace Precision  
Engraving Corp. ~~XXXXXXXXXXXXXXXXXXXX~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Ace Precision Engraving Corp.  
37-09 36th Avenue  
Long Island City, New York 11101

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

Sworn to before me this

11th day of October , 1977.

Janet Mack

John Huhn

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ACE PRECISION ENGRAVING CORP.

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 ~~XXXXXX~~ Period(s) :  
December 1, 1971 through November 30, 1974

State of New York  
County of Albany

John Huhn, 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 11th day of October, 1977, he served the within

Notice of Determination by ~~(XXXXXX)~~ mail upon Nathan Altman, CPA

(representative of) the petitioner in the within proceeding,

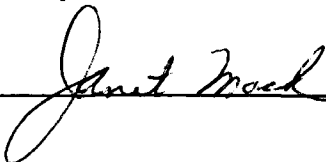
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
Nathan Altman, CPA of  
as follows: Altman, Eisenberg & Company, CPA's  
570 Seventh Avenue  
New York, New York 10018

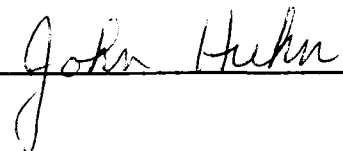
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

11th day of October, 1977.

  
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STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

October 11, 1977

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

**Ace Precision Engraving Corp.**  
**37-09 36th Avenue**  
**Long Island City, New York 11101**

**Gentlemen:**

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 & 1250** 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 CHERTWATY**  
**HEARING EXAMINER**

cc: Petitioner's Representative  
  
Taxing Bureau's Representative

## STATE TAX COMMISSION

In the Matter of the Application :  
of :  
ACE PRECISION ENGRAVING 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, 1971 through :  
November 30, 1974.

Applicant, Ace Precision Engraving Corp., 37-09 36th Avenue,  
Long Island City, New York 11101, 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, 1971 through  
November 30, 1974 (File No. 10540).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 25, 1977 at 1:15 P.M. Applicant appeared by Nathan Altman, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (William Fox, Esq., of counsel).

## ISSUE

Whether applicant sustained the burden of proof required to substantiate the nontaxable sales reported on the quarterly New York State sales and use tax returns it filed for the period December 1, 1971 through November 30, 1974.

FINDINGS OF FACT

1. The Sales Tax Bureau performed an examination of applicant, Ace Precision Engraving Corp.'s books and records for the period December 1, 1971 through November 30, 1974. As a result of said examination, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due on August 21, 1975 for tax due in the amount of \$4,032.93, plus penalties and interest. The Sales Tax Bureau deemed that sales made to eight of the applicant's customers were not sales for resale but were rather retail sales and, therefore, were taxable.

2. Applicant received and maintained properly completed resale certificates from seven of the eight aforementioned customers.

CONCLUSIONS OF LAW

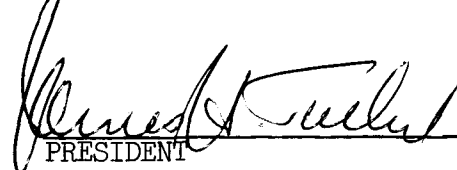
A. That where applicant showed that it received and maintained properly completed resale certificates, applicant sustained the burden of proof necessary to substantiate that such sales were not subject to sales tax, and, therefore, applicant was not required to collect tax in accordance with the meaning and intent of section 1132(c) of the Tax Law.

B. That applicant did not sustain the burden of proof necessary to substantiate that its sales to Jack Casabona, for which it did not receive and maintain a properly completed resale certificate, were sales for resale. Therefore, the Sales Tax Bureau properly held said sales to be taxable within the meaning and intent of section 1105(a) of the Tax Law.

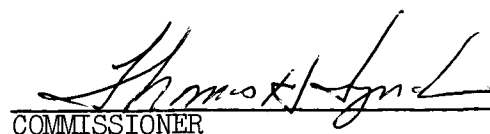
C. That the Sales Tax Bureau shall recompute the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on August 21, 1975 to conform with Conclusions of Law "A" and "B" above; and, that except as so modified, the application of Ace Precision Engraving Corp. is in all other respects denied.

DATED: Albany, New York  
October 11, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER