

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
RONALD VOLPE (PURCHASER)	:	DETERMINATION
d/b/a COIN GALLERY	:	
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 November 30, 1967 to	:	
October 29, 1970.	:	

Applicant, Ronald Volpe (Purchaser), d/b/a Coin Gallery, 8725 Fourth Avenue, Brooklyn, New York 11209, filed an application for revision of a determination or for a refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period November 30, 1967 to October 29, 1970. (File No. 00235).

A formal hearing was held before Julius E. Braun, Hearing Officer at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on August 26, 1976, at 9:15 A.M. Applicant appeared by Alfred G. Bastone, accountant. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Alexander Weiss, Esq. of counsel).

ISSUE

Whether applicant, the purchaser of a business in a bulk sales transaction, is liable for sales taxes determined to be due from seller of said business for periods prior to date of sale.

FINDINGS OF FACT

1. On April 19, 1971, as the result of an audit, the Sales Tax Bureau issued a Notice and Demand for Payment of Sales and Use Taxes Due against applicant, Ronald Volpe (purchaser), d/b/a Coin Gallery, for the period November 30, 1967 to October 29, 1970 in the amount of \$41,572.07, plus interest of \$6,064.59, for a total of \$47,636.66. A Notice of Assessment Review cancelled \$41,136.66, leaving a balance due of \$6,500.00. A Notice and Demand for Payment of Sales and Use Taxes Due was also issued on April 19, 1971 in the sum of \$47,636.66 to Richard Solomone, the seller d/b/a Coin Gallery.

2. On October 30, 1970 the Sales Tax Bureau received Notification of Sale Transfer or Assignment in Bulk, by registered mail from the applicant, Ronald R. Volpe's attorney, concerning the sale and purchase of a coin and stamp business, scheduled for October 26, 1970 for \$6,500.00 from Richard Solomone, d/b/a Coin Gallery.

3. No documentary or other sufficient evidence was presented by the applicant, Ronald R. Volpe, nor did the seller, Richard Solomone, during an audit verify alleged nontaxable sales totaling \$827,252.36. The first two periods in issue were withdrawn by the Sales Tax Bureau because of the statute of limitations. The tax due was reduced to \$6,500.00 which was the purchase price and the maximum permitted by section 1141(c) of the Tax Law.

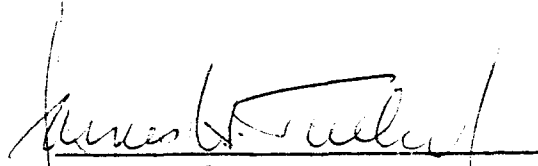
CONCLUSIONS OF LAW

A. That the applicant-purchaser, Ronald R. Volpe, is personally liable for the payment of any sales and use taxes determined to be due to New York State from the seller, said liability not to exceed the purchase price of the business assets sold, according to the meaning and intent of section 1141(c) of the Tax Law.

B. That the application of Ronald R. Volpe is denied and the Notice and Demand for Payment of Sales and Use Taxes Due issued April 19, 1971, as amended by the Notice of Assessment Review is sustained.

DATED: Albany, New York
April 14, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER