

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CIRCA PUBLICATIONS 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 & 29 of the  
Tax Law for the ~~Year(s)~~ or Period ~~(x)~~  
March 1, 1972 through February 28, 1975.

State of New York  
County of Albany

Bruce Batchelor, 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 26th day of April, 1977, ~~he~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon Circa Publications Inc.

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Circa Publications Inc.  
415 Fifth Avenue  
Pelham, New York 10803

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

26th 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

ADDRESS YOUR REPLY TO

April 26, 1977

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

✓  
**Circa Publications Inc.  
415 Fifth Avenue  
Pelham, New York 10803**

**Gentlemen:**

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

Please take further notice that pursuant to  
Section(s) **1138 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,

*Frank J. Puccia*

**Frank J. Puccia  
Supervisor of Small  
Claims Hearings**

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~  
Petitioner's Representative:

Taxing Bureau's Representative:

## STATE TAX COMMISSION

In the Matter of the Application :  
of :  
CIRCA PUBLICATIONS INC. :  
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 March 1, 1972 :  
through February 28, 1975. :

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on October 26, 1976, at 9:15 A.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Irwin Levy, Esq. of counsel).

Did the Sales Tax Bureau properly and accurately project additional sales tax due based on the sampling of a partial month's sales invoices?

FINDINGS OF FACT

1. Applicant, Circa Publications Inc., filed New York State and local sales and use tax returns for the periods ending May 31, 1972 through February 28, 1975.

2. On August 25, 1975, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Circa Publications Inc. and Italo Valente and Rose DeJesu, individually and as officers. Said notice was issued as the result of a field audit which disclosed additional sales tax due of \$1,087.01 for the period March 1, 1972 through February 28, 1975.

3. The Sales Tax Bureau audited the books and records of Circa Publication Inc., a retail distributor of technical, scientific and educational books. The audit included an examination of forty-five nontaxable sales invoices during the month of January, 1975. Of the forty-five sales invoices examined, the Sales Tax Bureau determined that the applicant did not properly charge sales tax on four specific sales. Of the four sales, on which no tax was charged, three sales were to Dynell Electronics Corp. and one sale was made to Rumianca Chemical Corp. The Sales Tax Bureau then equated the four additional taxable sales to the forty-five sales sampled to arrive at a rate of error. This rate of error was then applied to the applicant's nontaxable sales and resulted in an additional sales tax due of \$1,087.01.

4. Applicant, Circa Publications Inc., makes recurring sales of technical, scientific and educational books to many of their customers. Applicant employs the accrual method of accounting and maintains an accounts receivable subsidiary ledger.

5. Applicant, Circa Publications Inc., contended that their records were available for a detail examination and that the "sampling" of a partial month's nontaxable sales invoices did not accurately reflect the additional sales tax due.

6. Applicant, Circa Publications Inc., made taxable sales to Dynell Electronic Corp. in the sum of \$2,487.71 during the audit period and failed to collect sales taxes of \$174.14 on these sales. They also made taxable sales to Rumianca Chemical Corp. in the sum of \$151.59 and failed to collect sales taxes of \$12.13.

#### CONCLUSIONS OF LAW

A. That the Sales Tax Bureau's projected computation of additional taxable sales, based on a part-month review of non-taxable sales, did not lend adequate consideration to the applicant's accounting methods and, therefore, does not accurately reflect the additional sales tax due of \$1,087.01.

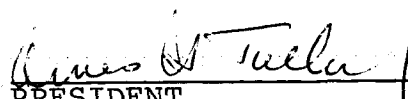
B. That the applicant, Circa Publications Inc., has failed to charge and collect the sales tax so imposed under section 1105(a) of the Tax Law from two of its customers in the sum of \$186.27.

C. That the application of Circa Publications Inc. is granted to the extent of reducing additional sales tax due for the period March 1, 1972 through February 28, 1975 from \$1,087.01


to \$186.27, together with such interest as may be lawfully owing;  
that the Sales Tax Bureau is hereby directed to accordingly  
modify the Notice of Determination and Demand for Payment of  
Sales and Use Taxes Due, issued August 25, 1975, and; that  
except as so granted, the application is in all other respects  
denied.

DATED: Albany, New York  
April 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER