

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SANDY HILL CORPORATION

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY ~~(CERTIFIED)~~ MAIL

For a Redetermination of a Deficiency or  
a Refund of Sales and Use  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~XXXX(s)~~ Period 5/31/70 -  
2/28/73.

State of New York  
County of Albany

MARY GROFF

, 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 10th day of February, 1976, she served the within

Notice of ~~Decision~~ (or Determination) by ~~(certified)~~ mail upon SANDY HILL CORPORATION

~~(representative of)~~ the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Sandy Hill Corporation

27 Allen Street

Hudson Falls, New York 12839

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 Post Office Department within the State of New York.

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

10th day of February, 1976.

Janet Mack

Mary Groff

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

SANDY HILL CORPORATION

AFFIDAVIT OF MAILING  
OF NOTICE OF DECISION  
BY ~~CERTIFIED~~ MAIL

For a Redetermination of a Deficiency or  
a Refund of Sales and Use  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~Year(s)~~ Period 5/31/70 -  
2/28/73.

State of New York  
County of Albany

MARY GROFF

, 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 10th day of February, 1976, she served the within

Notice of ~~Decision~~ (or Determination) by ~~certified~~ mail upon FRANK V. WILLIAMS, CPA &  
THOMAS J. FLYNN, CPA  
(representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows:

Frank V. Williams, C.P.A. &  
Thomas J. Flynn, C.P.A.  
Edwards, Williams, McManus & Ricciardelli, CPA's  
Quaker Village  
Glens Falls, New York 12801

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 Post Office Department within the State of New York.

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

10th day of February, 1976.

Janet Mack

Mary Groff



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

BUILDING 9, ROOM 107  
STATE CAMPUS  
ALBANY, N.Y. 12227

AREA CODE 518

STATE TAX COMMISSION  
HEARING UNIT

PAUL GREENBERG  
SECRETARY TO  
COMMISSION

ADDRESS YOUR REPLY TO

MR. WRIGHT  
MR. COBURN  
MR. LEISNER

(518) 457-3850

DATED: Albany, New York  
February 10, 1976

Sandy Hill Corporation  
27 Allen Street  
Hudson Falls, New York 12839

Gentlemen:

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

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

Any 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.  
These will be referred to the proper party for  
reply.

Very truly yours,

PAUL GREENBERG  
~~HEARING OFFICER~~  
ACTING DIRECTOR  
TAX APPEALS BUREAU

Enc.

cc: Petitioner's Representative  
Law Bureau

TA-1.12 (12/75)

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
SANDY HILL CORPORATION	:	
for Revision of a Determination or	:	DETERMINATION
for Refund of Sales and Use Taxes	:	
under Articles 28 and 29 of the Tax	:	
Law for the Period May 31, 1970	:	
through February 28, 1973.	:	

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Applicant, Sandy Hill Corporation, 27 Allen Street, Hudson Falls, New York 12839, applied for a 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 May 31, 1970 through February 28, 1973.

A formal hearing was held at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on June 4, 1974, at 2:00 P.M. before Edward Rook, Esq., Hearing Officer. The taxpayer was represented by Edwards, Williams, McManus & Ricciardelli, P.C. (Frank V. Williams, C.P.A. and Thomas J. Flynn, C.P.A.) and the Sales Tax Bureau was represented by Saul Heckelman, Esq., (Arnold Glass, Esq., of counsel).

#### ISSUES

I. Was the purchase by applicant of materials for the repair of a warehouse roof subject to sales or use tax?

II. Was the purchase by applicant of materials for a sanitary sewer pumping station entitled to an exemption from the sales and use tax as tangible personal property used directly and exclusively in the production of tangible personal property for sale?

III. Was the purchase by applicant of machinery and equipment used for repairing or reconditioning "paper rolls" owned by applicant's customers, in addition to use for producing tangible personal property for sale, entitled to an exemption from the sales and use tax as tangible personal property used directly and exclusively in the production of tangible personal property for sale?

IV. Was the purchase by applicant of materials and supplies for a miniature paper machine entitled to an exemption from the sales and use tax as tangible personal property purchased for use and consumption directly and exclusively in research and development?

FINDINGS OF FACT

1. The applicant, Sandy Hill Corporation, filed New York State and local sales and use tax returns for the periods March 1, 1970 through February 28, 1973.

2. On June 19, 1973, the Sales Tax Bureau issued to applicant a Notice of Determination and demand for payment of sales and use taxes due No. 90,004,130 in the amount of stated tax due of \$34,220.71 and penalty and interest of \$8,774.42 for a total of \$43,000.13.

3. On June 26, 1973, applicant paid tax due in the amount of \$5,399.20 and penalty and interest of \$542.43 leaving a balance of tax due unpaid of \$28,821.51 and a balance of penalty and interest unpaid of \$8,236.99 for a total of \$37,058.50 plus interest from date of assessment.

4. On September 19, 1973, Sandy Hill Corporation, filed an application for a hearing to review the determination.

5. The applicant purchased materials and supplies including shingles, lumber, nails and the like for the repair of its warehouse roof and obtained direct-payment permits.

6. The applicant purchased materials and supplies for the construction of a sanitary sewage pumping station which was constructed by applicant's personnel.

7. The pumping station did not include any treatment facilities. Waste effluents from applicant's manufacturing plant are pumped directly into the existing Hudson Falls sewage system.

8. The applicant purchased machinery and equipment for use in the production of paper machine rolls. The same machinery and equipment was utilized in the reconditioning of paper machine rolls owned by applicant's customers.

9. The machinery and equipment in question was utilized from 5% to 20% of its normal use time for the reconditioning service.

10. The applicant charges customers for the reconditioning service and returns the same rolls submitted by the customer to the customer.

11. The applicant purchased materials and supplies for the production of a miniature paper machine.

12. The miniature paper machine was utilized for research and development for promotion, for demonstration and for rental.

CONCLUSIONS OF LAW

A. That the purchase of building materials by applicant falls squarely within section 1105(a) of the Tax Law and constitutes a taxable retail sale.

B. That the purchase of materials and supplies used to construct a sanitary pumping facility is not exempt from tax. Section 1115(a)(12) exempted personal property used directly and exclusively in the production of personal property for sale. Equipment used in treating waste from a production process falls within this exemption. Pumping of effluents into a municipal treatment system does not constitute treatment waste exempt the materials and supplies used to construct a pumping facility.

C. That the purchase of machinery and equipment utilized for the production and reconditioning of paper rolls are not exempt from tax. Under the language of section 1115(a)(12) in effect during the applicable taxation periods, the production exemption required that the production use be direct and exclusive. Since 5% to 20% of the normal use time of said machinery and equipment was spent in reconditioning, the production use was not exclusive. Reconditioning is not production. "Production" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and

continuing through the last step of production where the product is finished or completed for sale. Reconditioning occurs after the completion of the productive process.

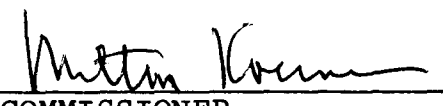
D. That the purchases of materials and supplies used to produce a miniature paper machine are not exempt from tax. Under the language of section 1115(a)(10) in effect during the applicable taxation periods, the research and development exemption required the research and development use to be direct and exclusive. The use of said miniature paper machine for rental, demonstration and promotion purposes indicates its research and development use was not exclusive.

E. The application is in all respects denied.

DATED: Albany, New York  
February 10, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER