

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

TROMER FABRICS INC.

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) or Period(s)~~ :  
April 2, 1973.

State of New York  
County of Albany

Catherine Steele, 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 30th day of November, 1976, she served the within  
Notice of Determination by ~~certified~~ mail upon Tromer Fabrics Inc.

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:  
Tromer Fabrics Inc.  
110 West 40th Street  
New York, New York

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  
30th day of November, 1976.

Catherine Steele

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

November 30, 1976

TELEPHONE: (518) **457-3850**

✓  
**Tromer Fabrics Inc.  
110 West 40th Street  
New York, New York**

**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.

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  
Supervisor of Small  
Claims Hearings**

Enc.

cc: ~~Perkins & Associates~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
TROMER FABRICS INC.	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under	:	
Articles 28 and 29 of the Tax Law for	:	
April 2, 1973.	:	

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Applicant, Tromer Fabrics Inc., 110 West 40th Street, New York, New York, 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 April 2, 1973. (Claim Number 9643).

A small claims hearing was held June 7, 1976 at 1:15 P.M. at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Harry Huebsch, Hearing Officer. The petitioner appeared by Larry Tromer, President of Tromer Fabrics Inc. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq., of counsel).

ISSUE

Is sales tax due on the purchase of a motor home which was used for rental purposes after personal use.

FINDINGS OF FACT

1. On August 21, 1973 applicant, Tromer Fabrics Inc., filed an application for refund of sales tax paid on a motor home purchased for rental purposes. The Sales Tax Bureau denied the refund claim on the grounds that the motor home was not purchased exclusively for rental.

2. Tromer Fabrics Inc. purchased a motor home from Travelers Motor Homes Inc. on April 2, 1973. Larry Tromer, President of the corporation, used the motor home the following weekend for a family vacation. One week after the purchase, the corporation entered into a lease-back agreement with Travelers under which the motor home was to be offered for rental by Travelers to the general public, with Tromer Fabrics Inc. sharing in the proceeds of the rentals. Travelers rented the vehicle to two different customers in July and August of 1973 and collected sales tax of \$95.59 and \$133.88 for each rental respectively. The lease-back agreement was terminated on August 14, 1973 and the motor home sold June 24, 1974.

CONCLUSIONS OF LAW

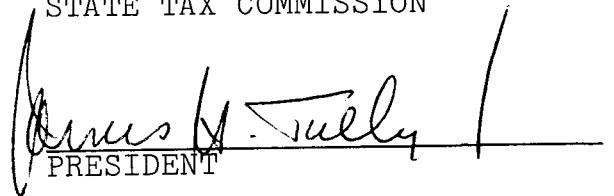
A. That the purchase of the motor home was not exclusively for the purpose of rental and therefore was not a purchase exclusively for resale within the meaning of section 1101(b)(4) of the Tax Law in order to be exempt for sales and use tax.

B. That the purchase of the motor home was a retail sale by the vendor of Tromer Fabrics Inc. as defined by section 1105(a) of the Tax Law.

C. That the petition of Tromer Fabrics for refund of \$714.00 sales tax paid is denied and the Notice of Refund Denial is sustained.

DATED: Albany, New York  
November 30, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER