

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

WILLIAM SPARKS

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(~~x~~) :  
April 15, 1972.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor , 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 21st day of December , 1976, ~~she~~ served the within  
Notice of Determination by (~~certified~~) mail upon William Sparks

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. William Sparks  
Route 1, Box 25-A-1  
East Otto, 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

21st day of December , 1976.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

December 21, 1976

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

Mr. William Sparks  
Route 1, Box 25-A-1  
East Otto, New York

Dear Mr. Sparks:

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

Please take further notice that pursuant to  
Section(s) **1139 & 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. Puccio*  
**Frank J. Puccio**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~External Bureau Representative~~

Taxing Bureau's Representative:

## STATE TAX COMMISSION

Applicant, William Sparks, Route 1, Box 25-A-1, East Otto, New York, has 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 April 15, 1972. A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, State Office Building, Buffalo, New York, on September 14, 1976, at 1:15 P.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Michael Weinstein, Esq. of counsel).

Is the applicant entitled to a refund, for sales tax paid on the purchase of a mobile home?

1. On April 15, 1972, applicant, William J. Sparks, purchased a mobile home from Deer Head Mobile Homes Inc. and paid a sales tax in the sum of \$332.85.

2. Applicant, William J. Sparks, timely filed an application for credit of refund of state and local sales or use tax. He claimed a refund in the amount of \$332.85 for sales tax paid on the purchase of a mobile home. He made the claim on the grounds that the purchase of the mobile home constituted a capital improvement to real property.

3. The purchase agreement between applicant, William J. Sparks, and the dealer, Deer Head Mobile Homes Inc., contained no provision for the installation of the mobile home.

4. The mobile home dealer, Deer Head Mobile Homes Inc., delivered the mobile home to the premises owned by the applicant, William J. Sparks, and placed the unit on a cement slab which was prepared by the applicant. The mobile home was not affixed to the cement slab. The dealer removed the running gear and connected the sewer lines. The applicant bore the responsibility to connect the water lines and make the proper utility connections.

5. A certificate of capital improvement was not issued by the applicant, William J. Sparks.

#### CONCLUSIONS OF LAW

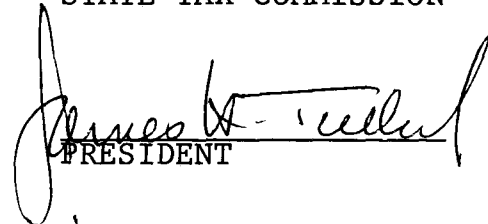
A. That the purchase by the applicant of a mobile home was a purchase of tangible personal property subject to the imposition of sales tax under section 1105 of the Tax Law.

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B. That the application of William J. Sparks is denied and the denial of refund issued May 2, 1974 is sustained.

DATED: Albany, New York  
December 21, 1976

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER