

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
MARTIN SUGAR

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)~~ Period(s) :
December 12, 1969.

State of New York
County of Albany

Donna Scranton, 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 6th day of August, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon Martin
Sugar ~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Martin Sugar
20 East 74th 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)~~
~~XXXXXX~~ 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

6th day of August, 1976

Donna Scranton

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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MARTIN SUGAR

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)~~ Period(s) :
December 12, 1969.

State of New York
County of Albany

Donna Scranton, 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 6th day of August, 1976, she served the within Notice of Determination by ~~(certified)~~ mail upon Lloyd Frank, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Lloyd Frank, Esq.
Wolf, Haldenstein, Alder, Freeman, Herz & Frank
270 Madison Avenue
New York, New York 10016
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

6th day of August, 1976.

Janet Mack

Donna Scranton



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

August 6, 1976

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

Mr. Martin Sugar
20 East 74th Street
New York, New York

Dear Mr. Sugar:

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,

PAUL B. COBURN
SUPERVISING TAX
HEARING OFFICER

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
MARTIN SUGAR : DETERMINATION
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 December 12, 1969.

Martin Sugar filed an application for refund of sales and use taxes in the amount of \$1,140.00 on August 3, 1971, under Articles 28 and 29 of the Tax Law.

A formal hearing was held at the offices of the State Tax Commission, 2 World Trade Center, New York, New York on October 24, 1975, at 9:00 a.m. before Nigel G. Wright, Hearing Officer. The taxpayer was represented by Lloyd Frank, Esq., of Wolf, Haldenstein, Adler, Freeman, Herz and Frank, Esqs. The Sales Tax Bureau was represented by Peter Crotty, Jr., Esq. (Michael Alexander, Esq. of counsel).

ISSUE

Whether taxpayer is entitled to a refund of sales tax paid on the purchase of a Rolls Royce.

FINDINGS OF FACT

1. Applicant, Martin Sugar, on November 10, 1969, purchased a 1969 Rolls Royce from Peter Zage and Company, Ltd. This was intended by him to be a gift to his wife. The purchase price of the car was \$19,000 and the sales tax was \$1,140. Applicant delivered to the dealer two checks totalling \$20,140.

2. During December, Peter Zage and Company, Ltd., delivered the car to Mr. Sugar. Mr. Sugar and his wife were driven to dinner in the car. However, Mr. Sugar's wife refused the gift as being too extravagant for use in New York City, and the car was returned to the dealer. The car was never registered in the name of either Mr. or Mrs. Sugar.

3. On April 9, 1970, Peter Zage and Company, Ltd., remitted a check in the amount of \$15,360.00 to applicant. This amount was computed at a sales price of \$16,000.00 less a charge of \$640.00 for body work, parking fees and a salesman's commission.

4. The petitioner failed to appear or testify at the hearing.

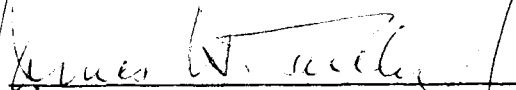
CONCLUSIONS OF LAW

A. The evidence submitted is equally consistent with a completed sale to petitioner and a resale by him back to the dealer. Petitioner has not carried the burden of proof that there was a cancellation of the first sale.

B. Taxpayer's application for refund is denied.

DATED: Albany, New York
August 6, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER