

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD BROWN

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 and 29 of the :  
Tax Law for the ~~Year(s)~~ Period ~~(x)~~ :  
June 1, 1970 through February 28, 1973.

State of New York  
County of Albany

John Huhn, 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 February, 1978, ~~she~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon Richard Brown

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

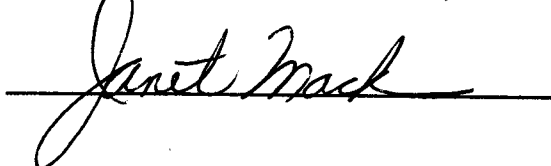
as follows: Mr. Richard Brown  
Wood Street  
Mahopac, New York

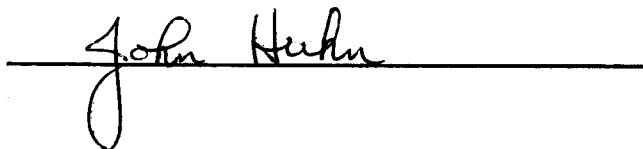
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~  
~~xxxxx~~) petitioner herein and that the address set forth on said wrapper is the  
last known address of the (~~representative of~~) petitioner.

Sworn to before me this

6th day of February, 1978





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD BROWN

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 and 29 of the :  
Tax Law for the ~~XXXXXX~~ Period(x) :  
June 1, 1970 through February 28, 1973.

State of New York  
County of Albany

John Huhn , 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 6th day of February , 1978, he served the within  
Notice of Determination by ~~(certified)~~ mail upon Cyril T. McDermott

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

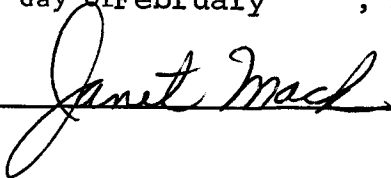
Cyril T. McDermott, Esq.  
McDermott & Torpy  
1011 Park Street  
Peekskill, New York 10566

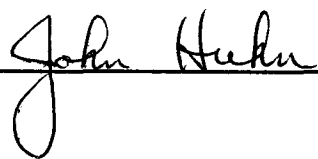
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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 February , 1978







STATE OF NEW YORK  
STATE TAX COMMISSION  
TAX APPEALS BUREAU  
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT  
MILTON KOERNER  
THOMAS H. LYNCH

**February 6, 1978**

**Mr. Richard Brown  
Wood Street  
Mahopac, New York**

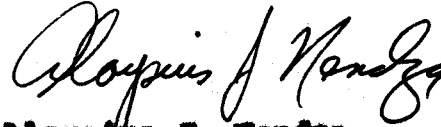
**Dear Mr. Brown:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

  
**Aloysius J. Mendon  
Assistant Director**

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
RICHARD BROWN : 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 June 1, 1970 through :  
February 28, 1973. :  
:

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Applicant, Richard Brown, Wood Street, Mahopac, 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 the period June 1, 1970 through February 28, 1973 (File No. 10168).

A formal hearing was held before Harvey B. Baum, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on February 15, 1977 at 10:45 A.M. Applicant appeared by Cyril T. McDermott, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Alfred Rubenstein, Esq., of counsel).

ISSUE

Whether the determination of tax assessed against applicant, Richard Brown, is final and irrevocable.

FINDINGS OF FACT

1. On October 19, 1973, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant, Richard Brown, an officer of Interlake Restaurant, Inc., assessing him for sales and use taxes due from said corporation in the amount of \$12,084.26, plus interest of \$1,334.26.

2. Applicant acknowledged receipt of said Notice of Determination and claimed that he forwarded it to one Mr. Tuttle, the attorney for Willard Brown who applicant contended controlled Interlake Restaurant, Inc. for the period in issue.

3. By letter dated August 20, 1975, applicant, through his present attorney, applied for a formal hearing in regard to the said Notice of Determination.

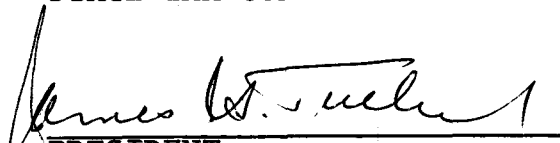
CONCLUSIONS OF LAW

A. That the application of Richard Brown was not timely filed since it was not made within 90 days after the giving of Notice of Determination and Demand for Payment of Sales and Use Taxes Due. Accordingly, said determination is final and irrevocable under section 1138 of the Tax Law.

B. That the application of Richard Brown is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued October 19, 1973 is sustained.

DATED: Albany, New York  
February 6, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER