

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
ECONOMY DRY GOODS CO., 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 ~~XXXXXX~~ Period ~~(S)~~ :  
June 1, 1972 through May 31, 1975.

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 20th day of September , 1978 , ~~He~~ served the within  
Notice of Determination by ~~XXXXXX~~ mail upon Economy Dry Goods Co., Inc.

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Economy Dry Goods Co., Inc.  
92 Main Street  
South Glens Falls, New York 12801

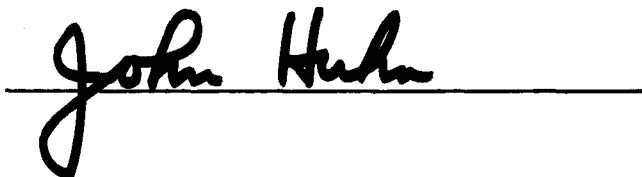
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

20th day of September , 19 78





STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

ECONOMY DRY GOODS CO., 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 (X) 28 & 29 of the :  
Tax Law for the ~~XXXXXX~~ Period (sx) :  
June 1, 1972 through May 31, 1975.

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 20th day of September, 1978, He served the within

Notice of Determination by ~~(XXXXXX)~~ mail upon Sanford Jaffee, CPA  
Kessler, Bernstein & Jaffee  
(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
Sanford Jaffee, CPA  
as follows: Kessler, Bernstein & Jaffee  
75 State St.  
Albany, New York 12207

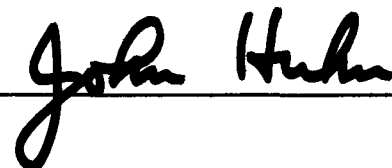
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

20th day of September, 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

**September 20, 1978**

**Economy Dry Goods Co., Inc.  
91 Main Street  
South Glens Falls, New York 12801**

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,

  
**JOSEPH CHYNOWETH**  
Hearing Examiner

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 :  
ECONOMY DRY GOODS CO., 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 :  
the Period June 1, 1972 through May 31, :  
1975. :

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Applicant, Economy Dry Goods Co., Inc., 92 Main Street, South Glens Falls, New York 12801, 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, 1972 through May 31, 1975 (File No. 10468).

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on February 14, 1977 at 10:00 A.M. Applicant appeared by Sanford Jaffee, CPA and Haskell Bernstein, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Andrew Haber, Esq., of counsel).

ISSUE

Whether the purchases of newspaper advertising supplements by applicant were subject to sales tax, where the supplements were purchased for delivery to and insertion in newspapers.

FINDINGS OF FACT

1. On November 25, 1975 as the result of an audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant for taxes due of \$3,442.52, plus penalty and interest, for the period June 1, 1972 through May 31, 1975.

2. Applicant timely filed an application to review the aforementioned determination.

3. Applicant, Economy Dry Goods Co., Inc., operates discount department stores. During the period at issue, applicant purchased newspaper advertising supplements from GAN Press. At the direction of applicant, the supplements were sent to various newspapers which inserted the supplements in their newspapers for distribution. The newspapers involved were the Albany Times Union, the Knickerbocker News-Union Star and the Glens Falls Post-Star.

4. The Sales Tax Bureau determined that the purchase of newspaper advertising supplements were purchases of tangible personal property subject to the imposition of the sales tax, in accordance with section 1105(a) of the Tax Law.

CONCLUSIONS OF LAW

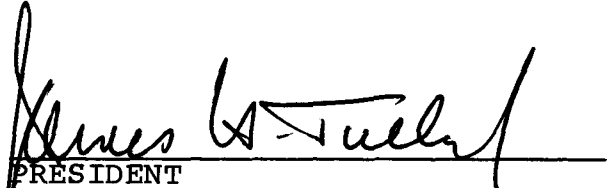
A. That advertising supplements which are incorporated into and are sold or delivered with or as part of a newspaper, are part of such newspaper and, therefore, exempt from the imposition of sales and use tax pursuant to section 1115(a)(5) of the Tax Law.


B. That the application of Economy Dry Goods Co., Inc. is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued November 25, 1975 is cancelled.

DATED: Albany, New York

STATE TAX COMMISSION

September 20, 1978

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER