

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
George St. Louis :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Sales & Use Tax :
under Article 28 & 29 of the Tax Law
for the Year 1977. :

State of New York
County of Albany

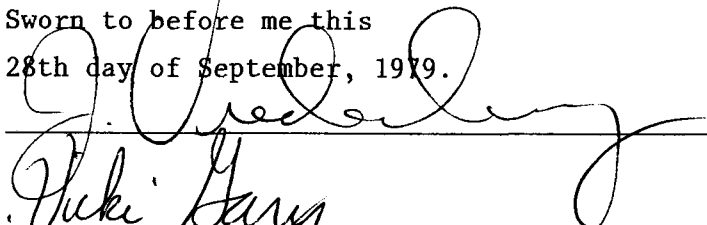
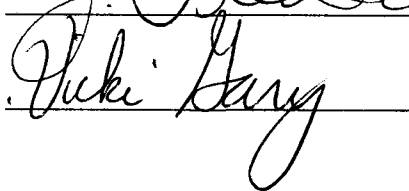
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 28th day of September, 1979, he served the within notice of Determination by mail upon George St. Louis, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

George St. Louis
32 Lott Pl.
Brooklyn, NY 11234

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of September, 1979.

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

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

September 28, 1979

George St. Louis
32 Lott Pl.
Brooklyn, NY 11234

Dear Mr. St. Louis:

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,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
GEORGE ST. LOUIS : 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 January 31, 1977.

Applicant, George St. Louis, 32 Lott Place, Brooklyn, New York 11234, 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 January 31, 1977 (File No. 18373).

A small claims hearing was held before Judy Clark, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on March 20, 1979 at 1:15 P.M. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether applicant is entitled to a refund of sales tax paid on an automobile purchased in Brooklyn, New York.

FINDINGS OF FACT

1. On March 25, 1977, applicant, George St. Louis, filed an application for a refund of \$487.60, for sales tax which was paid to New York State on the purchase of a motor vehicle. The application was filed on the basis that applicant paid sales taxes to both New York State and to the District of Columbia.

2. The refund was denied by the Sales Tax Bureau on April 6, 1977, on the grounds that applicant was a resident of New York State at the time of purchase.

3. On January 31, 1977, applicant purchased an automobile from Mid-County Buick, Inc., Brooklyn, New York, for \$6,096.00, plus license fee of \$13.00 and sales tax of \$487.60.

4. At the time of the purchase, applicant had been a resident of Brooklyn, New York, for approximately 10 years, and had maintained a permanent place of abode at 210 Clinton Avenue, Brooklyn, New York. Applicant also maintained a residence in Washington, D.C.

5. During the period at issue, applicant was employed by Eastern Airlines at LaGuardia Airport in New York City, and used the motor vehicle to commute from his home in Brooklyn to his place of employment.

6. On March 7, 1977, the vehicle was titled in the District of Columbia and a registration certificate was issued to applicant upon payment of \$412.65 in sales tax to the District of Columbia. Applicant wanted to maintain his Washington, D.C., license plates.

CONCLUSIONS OF LAW

A. That section 1105(a) of the Tax Law imposes a sales tax on the receipts from every retail sale of tangible personal property.

B. That the purchase by applicant, George St. Louis, of a motor vehicle was a retail sale of tangible personal property, the receipts from which are subject to sales tax pursuant to section 1105(a) of the Tax Law.

C. That the application of George St. Louis is denied and the refund denial issued on April 6, 1977 is sustained.

DATED: Albany, New York

SEP 28 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER