

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

May 20, 1983

Associated Cooler Corp.
c/o F. R. Goglio
167 Willis Ave.
Mineola, NY 11501

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 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 Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
F. R. Goglio
Frederick & Goglio
167 Willis Ave.
Mineola, NY 11501
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ASSOCIATED COOLER CORP.
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, 1975
through June 16, 1978.

In the Matter of the Petition
of
ESTATE OF LEO KATZ
SABINA KATZ, EXECUTRIX
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, 1975
through June 16, 1978.

DECISION

In the Matter of the Petition
of
SABINA KATZ
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, 1975
through June 16, 1978.

In the Matter of the Petition
of
FRANK GRANDE
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, 1975
through June 16, 1978.

Petitioner, Associated Cooler Corp., 477 Leonard Street, Brooklyn, New York 11222, filed a petition 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, 1975 through June 16, 1978 (File No. 25729).

Petitioner, Estate of Leo Katz, Sabina Katz, Executrix, 80-13 153rd Avenue, Howard Beach, New York 11414, filed a petition 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, 1975 through June 16, 1978 (File No. 25996).

Petitioner, Sabina Katz, 80-13 153rd Avenue, Howard Beach, New York 11414, filed a petition 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, 1975 through June 16, 1978 (File No. 25995).

Petitioner, Frank Grande, 10 Pine Road, Syosset, New York 11791, filed a petition 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, 1975 through June 16, 1978 (File No. 25994).

A consolidated formal hearing was commenced before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 24, 1982 at 1:35 P.M., and continued to conclusion before Doris E. Steinhardt, Hearing Officer, at the same offices on November 15, 1982 at 1:30 P.M. Petitioners appeared by Frederick & Goglio, Esqs. (F.R. Goglio, Esq., of counsel). The Audit Division appeared by Paul B. Coburn, Esq. (Alexander Weiss, Esq., of counsel).

ISSUES

I. Whether the Audit Division properly determined the sales and use taxes due from petitioner Associated Cooler Corp. upon the initial audit, or whether the taxes were properly revised to take cognizance of a change in the corporation's accounting method and the declining business of the corporation.

II. Whether until the time of his decease on October 11, 1977, Leo Katz was a person required to collect tax on behalf of Associated Cooler Corp. and thus his estate is liable for sales and use taxes unpaid by the corporation.

III. Whether petitioner Sabina Katz was a person required to collect tax on behalf of Associated Cooler Corp. and is therefore personally liable for sales and use taxes unpaid by the corporation.

IV. Whether petitioner Frank Grande was a person required to collect tax on behalf of Associated Cooler Corp. and is therefore personally liable for sales and use taxes unpaid by the corporation.

FINDINGS OF FACT

1. (a) On September 12, 1978, the Audit Division issued to petitioner Associated Cooler Corp. ("Associated Cooler") a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period June 1, 1975 through June 16, 1978, assessing sales and use taxes under Articles 28 and 29 of the Tax Law in the amount of \$54,163.41, plus interest thereon in the amount of \$8,130.95. On September 20, 1978, the Audit Division issued to Associated Cooler a second Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the same period, updating the interest and assessing penalties of \$10,031.54. On September 12, 1978, the Audit Division issued to Associated Cooler a Notice and Demand for Payment of Sales and Use Taxes Due for the period December 1, 1977 through February 28, 1978, assessing sales and use taxes in the amount of \$16,153.92, plus interest of \$466.36.

(b) On October 2, 1978, the Audit Division issued to petitioner Estate of Leo Katz, c/o Salerno Katz (sic), a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period June 1, 1975 through June 16, 1978, assessing sales and use taxes in the amount of \$54,163.41, plus interest of \$9,984.73. On October 2, 1978, the Audit Division issued to Estate of Leo Katz, c/o Salerno Katz (sic), Executrix, a Notice and Demand for Payment of Sales and Use Taxes Due for the period December 1, 1977 through February 28, 1978, assessing sales and use taxes in the amount of \$16,153.92, plus interest of \$1,032.88.

(c) On October 2, 1978, the Audit Division issued to petitioner Sabena Katz (sic) a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period June 1, 1975 through June 16, 1978, assessing sales and use taxes in the amount of \$54,163.41, plus penalties of \$10,389.63 and interest of \$9,984.73. On October 2, 1978, the Audit Division issued to Sabena Katz (sic) a Notice and Demand for Payment of Sales and Use Taxes Due for the period December 1, 1977 through February 28, 1978, assessing sales and use taxes in the amount of \$16,153.92, plus penalty of \$1,776.93 and interest of \$1,032.88.

(d) On October 2, 1978, the Audit Division issued to petitioner Frank Grande a Notice of Determination and Demand for Payment of Sales and Use Taxes Due for the period June 1, 1975 through June 16, 1978, assessing sales and use taxes in the amount of \$54,163.41, plus penalty of \$10,389.63 and interest of \$9,984.73. On October 2, 1978, the Audit Division issued to Mr. Grande a Notice and Demand for Payment of Sales and Use Taxes Due for the period December 1, 1977 through February 28, 1978, assessing sales and use taxes in the amount of \$16,153.92, plus penalty of \$1,776.93 and interest of \$1,032.88.

2. Associated Cooler filed a sales and use tax return for the quarterly period ended February 28, 1978, which reflected tax liability in the amount of \$16,153.92 and which was accompanied by a check in that sum. The check was subsequently dishonored, and as a result, the four above-mentioned Notices and Demand for Payment of Sales and Use Taxes Due were issued to petitioners.

3. (a) The four above-mentioned Notices of Determination and Demand for Payment of Sales and Use Taxes Due were issued to petitioners as the result of an examination of the books and records of Associated Cooler conducted in early 1978. At that time, the business was closing down, and complete records for the audit period were unavailable; thus, certain findings from a prior audit of Associated Cooler (for the period June 1, 1972 through May 31, 1975) were used.

(b) The sales tax examiner compared gross sales as reported by Associated Cooler with the corporation's cash receipts journal for the period December 1, 1976 through July 31, 1977 and discovered unreported sales in the amount of \$66,000.00, of which \$20,000.00 were taxable. He also reviewed invoices, and worksheets prepared by the accountants for Associated Cooler for the period December 1, 1976 through August 31, 1977. These worksheets in essence constituted an analysis of all deposits made to the corporate account during that period, categorized by sales and other income, and were verified by the examiner by reconciliation with bank deposit slips and sales invoices. All records examined nonetheless disclosed the unreported sales figure of \$66,000.00. The examiner calculated a 14.49 percent increment in taxable sales, which percentage of error he applied to arrive at additional taxable sales for the audit period in the amount of \$255,651.00.

(c) Associated Cooler failed to file sales tax returns for the quarterly periods ended May 31, 1978 and August 31, 1978; the sales tax examiner consequently estimated taxable sales of \$49,083.00 for those periods.

(d) Because of incomplete records, especially invoices and contracts, the examiner used the nontaxable sales test determined on the prior audit (9.65 percent) to compute additional taxable sales of \$50,071.00.

(e) The examiner performed a three-month purchase test which revealed that Associated Cooler failed to pay tax upon 40.57 percent of its purchases. He applied this percentage of error to estimated purchases for the audit period, granting Associated Cooler credit for those material purchases subsequently used in taxable sales.

(f) Finally, the examiner disallowed one sale, apparently claimed to have been a nontaxable sale made to Sullivan County, for lack of substantiation and treated the sale as a taxable sale made in the City of New York.

4. After the first hearing in this matter and at the direction of the hearing officer, the sales tax examiner conferred with petitioners' accountants and reviewed additional records. The accountants explained to the examiner that the \$66,000.00 figure constituted a one-time adjustment due to a change in accounting method from percentage of completion to accrual. Based upon this explanation and his earlier verification of the accountants' analyses (see Finding of Fact "3(b)"), the examiner revised the amount of sales tax assessed to \$7,273.22 and the amount of use tax to \$33,766.88. (These revised figures do not take into consideration the amount of tax due as a result of the dishonored check.) The examiner testified that during his initial review, he was unaware of the change in accounting method and had concluded that under-reporting of sales by \$66,000.00 had been a recurring phenomenon. The revisions he made were as follows:

(a) Additional taxable sales of \$255,651.00, based upon underreported taxable sales, were eliminated.

(b) Estimated taxable sales for the periods ended May 31, 1978 and August 31, 1978 were reduced by half to take cognizance of the decline in business.

(c) The credit allowed for purchases used in taxable jobs was decreased from \$24,507.92 to \$16,688.08, thereby increasing the use tax assessed to \$33,766.88.

At the second hearing, counsel for the Audit Division did not accept the examiner's revised figures, on the ground that the examiner "could have found otherwise had he been given a full set of records for all the three years, not just nine months...".

5. Associated Cooler was engaged in the business of installing walk-in freezers and other refrigeration equipment.

6. Prior to his death on October 11, 1977, Leo Katz was president of the corporation. He made all managerial and policy decisions and met with the corporation's attorneys and accountants. Franchise tax reports filed by the corporation for the fiscal years ended July 31, 1975, July 31, 1976 and July 31, 1977 reflect compensation paid to Mr. Katz in the respective amounts of \$25,750.00, \$26,160.00 and \$18,200.00. With respect to the reports for fiscal years 1975 and 1976, Mr. Katz signed each in his capacity as president.

7. Petitioner Frank Grande joined the corporation in 1967 or 1968 as a salesman. He contacted customers, drew layouts of customers' business premises and prepared proposals. In approximately 1975, Mr. Grande became vice-president of Associated Cooler, in his words "just for the convenience of signing checks". Mr. Grande was at that time empowered to sign checks on the corporate account

by corporate resolution, and did so from time to time when Mr. Katz was unavailable. Mr. Grande owned no stock in Associated Cooler. The franchise tax reports filed by the corporation for fiscal years 1976 and 1977 list Mr. Grande as vice-president and reflect compensation paid to him in the respective amounts of \$18,700.00 and \$18,200.00; the report for the later year was signed by Mr. Grande in his capacity as vice-president. Mr. Grande also signed the sales and use tax return submitted by the corporation for the quarterly period ended August 31, 1977. Since the accountants in the course of their duties met only with Mr. Katz and since Mr. Katz never discussed financial affairs with him, Mr. Grande was unaware of Associated Cooler's financial difficulties until shortly after Mr. Katz died.

8. Up to the time of her husband's decease, Mrs. Sabina Katz was a homemaker. According to Schedule F (Officers and Certain Stockholders) of Associated Cooler's franchise tax report for fiscal year 1975, Mrs. Katz was secretary of the corporation, receiving compensation of \$14,840.00. However, she did not participate in the management of the corporation, was not an authorized signatory on the corporate account and did not visit the business premises (except to meet her husband at the end of the day) until after his death. On October 19, 1977, by corporate resolution, Mrs. Katz became authorized to sign checks on the account of Associated Cooler. She assumed the office of secretary and with Mr. Grande, attempted to conduct the business. As she described it:

"After he [Leo Katz] passed away, I went into the office to see what was going on and became an officer of the corporation, hoping that I could keep the business going because I knew there was a going business. When I went in, the business just seemed to evaporate, deteriorate. I put money into the business hoping to save it and...then the business went bankrupt."

9. Mrs. Katz signed the corporation's sales and use tax return (prepared by the corporation's accountants) filed for the period ended February 28, 1978. She remitted therewith a check in the amount of \$16,153.92, on the assumption that Associated Cooler would receive contracts for two considerably large jobs and would thus be able to meet its obligations, including the tax liability. The corporation subsequently received one of the jobs but was never paid any money on the contract.

CONCLUSIONS OF LAW

A. That the sales tax examiner properly revised the amount of sales tax assessed against petitioners to \$7,273.22 (plus, of course, the assessment of \$16,153.92 due to the dishonored check) and the use tax assessed against petitioners to \$33,766.88. Clearly, a one-time adjustment to gross sales made by Associated Cooler to take cognizance of its change in accounting method should not be projected over the entire audit period. The revision made to take account of Associated Cooler's declining sales was also appropriate. The examiner's use of the nontaxable sales test determined upon an audit of Associated Cooler for a prior period, and his use of a three-month test period in calculating the use tax liability at issue were warranted, in light of his finding that the corporation's records were incomplete (a finding neither refuted nor contested by petitioners). Matter of Chartair, Inc. v. State Tax Comm., 65 A.D.2d 44 (3d Dept.).

B. That section 1133, subdivision (a) of the Tax Law places personal liability for the taxes imposed, collected or required to be collected under Article 28 upon "every person required to collect any tax" imposed by said article. Section 1131, subdivision (1) furnishes the following definition for the term "persons required to collect tax":

"Persons required to collect tax' or 'person required to collect any tax imposed by this article' shall include: every vendor of tangible personal property or services; every recipient of amusement charges; and every operator of a hotel. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this article and any member of a partnership."

The resolution of whether Leo Katz, Sabina Katz and Frank Grande were each a person required to collect sales and use taxes turns on the particular facts and circumstances involved. The holding of corporate office does not, per se, impose personal liability upon the office holder. Relevant considerations include the officer's day-to-day responsibilities in the corporation, his knowledge of and involvement in the financial affairs and management of the corporation, and whether he prepared and filed the sales tax returns. Vogel v. Dept. of Taxation and Finance, 98 Misc.2d 222 (Sup. Ct. Monroe Co.); Chevlowe v. Koerner, 95 Misc.2d 388 (Sup. Ct. Queens Co.); 20 NYCRR 526.11(b).

C. That until the time of his decease on October 11, 1977, Leo Katz was in full control of the financial affairs of Associated Cooler and was thus a person required to collect sales and use taxes on behalf of the firm; his estate is consequently liable for taxes up to such date.

D. That prior to October 19, 1977, petitioner Sabina Katz was not under a duty to act for Associated Cooler in complying with any requirement of Article 28. Although she held the title of secretary during the months of June and July, 1975, she did not sign any tax returns, was not authorized to sign checks on the corporate account, and did not share in the management of Associated Cooler. On October 19, 1977, however, her participation in the corporation dramatically changed. She had complete knowledge of and involvement in corporate financial matters, was authorized to sign corporate checks and signed corporate returns. Consequently, she is personally liable for taxes after that date.

E. That prior to the death of Leo Katz, petitioner Frank Grande was not under a duty to act for Associated Cooler in complying with any requirement of Article 28. He was a salesman who did not share with Mr. Katz final word regarding which bills and creditors should or should not be paid; indeed, he was unaware of which bills and creditors were unpaid. His role dramatically changed after October 11, 1977, when he, with Mrs. Katz, attempted to keep the business going. Mr. Grande is properly held personally liable for taxes after such date.

F. That all penalties and interest in excess of the minimum amount of interest prescribed by statute are remitted.

G. That the petition of Associated Cooler Corp. is granted to the extent indicated in Conclusions of Law "A" and "F"; the Notices of Determination and Demand for Payment of Sales and Use Taxes Due issued on September 12, 1978 and September 20, 1978 are to be modified accordingly; and the Notice and Demand for Payment of Sales and Use Taxes Due issued on September 12, 1978 is sustained in full.

That the petition of Estate of Leo Katz, Sabina Katz, Executrix, is granted to the extent indicated in Conclusions of Law "A" and "C"; the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 is to be modified accordingly; and the Notice and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 is cancelled in full.


That the petition of Sabina Katz is granted to the extent indicated in Conclusions of Law "A", "D" and "F", and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 and the Notice and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 are to be modified accordingly.


That the petition of Frank Grande is granted to the extent indicated in Conclusions of Law "A", "E" and "F", and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 and the Notice and Demand for Payment of Sales and Use Taxes Due issued on October 2, 1978 are to be modified accordingly.

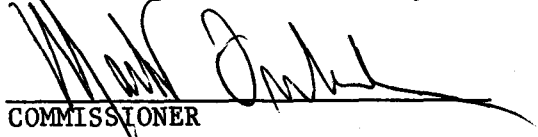
DATED: Albany, New York

MAY 20 1983

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Associated Cooler Corp. :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Estate of Leo Katz :
Sabina Katz, Executix :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Sabina Katz :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Frank Grande :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

State of New York
County of Albany

David Parchuck, 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 May, 1983, he served the within notice of Decision by certified mail upon Sabina Katz, Estate of Leo Katz the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sabina Katz
Estate of Leo Katz
80-13 153rd Ave.
Howard Beach, NY 11414

Affidavit of Mailing
Page 2

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
20th day of May, 1983.

David Parcluck

Annice P. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 20, 1983

Sabina Katz
Estate of Leo Katz
80-13 153rd Ave.
Howard Beach, NY 11414

Dear Mrs. Katz:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 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 Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
F. R. Goglio
Frederick & Goglio
167 Willis Ave.
Mineola, NY 11501
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Associated Cooler Corp. :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Estate of Leo Katz :
Sabina Katz, Executix :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Sabina Katz :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Frank Grande :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

State of New York
County of Albany

David Parchuck, 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 May, 1983, he served the within notice of Decision by certified mail upon Frank Grande, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Frank Grande
10 Pine Rd.
Syosset, NY 11791

Affidavit of Mailing
Page 2

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
20th day of May, 1983.

David Parchuck

Conrad P. Haglund

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

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

May 20, 1983

Frank Grande
10 Pine Rd.
Syosset, NY 11791

Dear Mr. Grande:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 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 Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9 State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
F. R. Goglio
Frederick & Goglio
167 Willis Ave.
Mineola, NY 11501
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Associated Cooler Corp. :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Estate of Leo Katz :
Sabina Katz, Executix :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Sabina Katz :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Frank Grande :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

State of New York
County of Albany

David Parchuck, 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 May, 1983, he served the within notice of Decision by certified mail upon Associated Cooler Corp., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Associated Cooler Corp.
c/o F. R. Goglio
167 Willis Ave.
Mineola, NY 11501

Affidavit of Mailing

Page 2

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
20th day of May, 1983.

David Parchuck

Chamie A. Haglund

**AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174**

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Associated Cooler Corp. :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Estate of Leo Katz :
Sabina Katz, Executix :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

AFFIDAVIT OF MAILING

In the Matter of the Petition :
of :
Sabina Katz :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

In the Matter of the Petition :
of :
Frank Grande :
for Revision of a Determination or a Refund of :
Sales & Use Taxes under Articles 28 & 29 of the :
Tax Law for the Period 6/1/75-6/16/78. :

State of New York
County of Albany

David Parchuck, 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 May, 1983, he served the within notice of Decision by certified mail upon F. R. Goglio the representative of the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

F. R. Goglio
Frederick & Goglio
167 Willis Ave.
Mineola, NY 11501

Affidavit of Mailing

Page 2

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 May, 1983.

David Parchuck

Constance R. Haymond

AUTHORIZED TO ADMINISTER
OATHS PURSUANT TO TAX LAW
SECTION 174

P 481 207 507

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
Sabina Katz	
Street and No.	
80-13 153rd Ave	
P.O. State and ZIP Code	
Howard Beach, NY 11414	
Postage	\$
Certified Fee	

PS Form 3800, Feb. 1982

Postmark or Date	
TOTAL Postage and Fees	\$
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return Receipt Showing to whom, Date, and Address of Delivery	
Certified Fee	
Special Delivery Fee	
Postage	\$
P.O. State and ZIP Code	
Syosset, NY 11791	
Street and No.	
10 Pine St.	
Sent to	
Frank Grande	

(See Reverse)

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

RECEIPT FOR CERTIFIED MAIL

P 481 207 506

P 481 207 505

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
F.R. Goglio	
Street and No.	
167 Willis Ave	
P.O. State and ZIP Code	
Mineola, NY 11501	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return Receipt Showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

PS Form 3800, Feb. 1982

P 481 207 504

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
Associated Cooler Corp	
Street and No.	
167 Willis Ave, Goglio	
P.O. State and ZIP Code	
Mineola, NY 11501	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return Receipt Showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

PS Form 3800, Feb. 1982