

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

October 21, 1983

Ford Motor Company  
Buffalo Stamping Plant  
P.O. Box 1899  
Dearborn, MI 481211899

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  
Drake A. McLean  
Ford Motor Company, The American Rd.  
Room 529, P.O. Box 1899  
Dearborn, MI 481211899  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
Ford Motor Company :  
Buffalo Stamping Plant : 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 Period :  
9/1/73-8/31/79. :

\_\_\_\_\_  
State of New York  
County of Albany

Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 21st day of October, 1983, she served the within notice of Decision by certified mail upon Ford Motor Company, Buffalo Stamping Plant, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

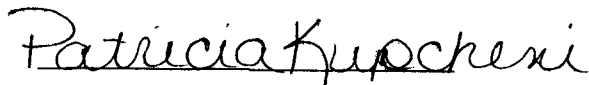
Ford Motor Company  
Buffalo Stamping Plant  
P.O. Box 1899  
Dearborn, MI 481211899

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  
21st day of October, 1983.





AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of Ford Motor Company Buffalo Stamping Plant	: : : : : : :	AFFIDAVIT OF MAILING
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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  
Period 9/1/73-8/31/79. :

State of New York  
County of Albany

Connie Hagelund, being duly sworn, deposes and says that she is an employee of the State Tax Commission, over 18 years of age, and that on the 21st day of October, 1983, she served the within notice of Decision by certified mail upon Drake A. McLean the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Drake A. McLean  
Ford Motor Company, The American Rd.  
Room 529, P.O. Box 1899  
Dearborn, MI 481211899

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  
21st day of October, 1983.

Connie A. Hagelund

Patricia Kuscheni

AUTHORIZED TO ADMINISTER  
OATHS PURSUANT TO TAX LAW  
SECTION 174

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition	:	
	:	
of	:	
	:	
FORD MOTOR COMPANY	:	DECISION
BUFFALO STAMPING PLANT	:	
for Revision of Determinations or for Refunds	:	
of Sales and Use Taxes under Articles 28 and 29	:	
of the Tax Law for the Period September 1, 1973	:	
through August 31, 1979.	:	

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Petitioner, Ford Motor Company, Buffalo Stamping Plant, P.O. Box 1899, Dearborn, Michigan 48121, filed petitions for revision of determinations or for refunds of sales and use taxes under Articles 28 and 29 of the Tax Law for the period September 1, 1973 through August 31, 1979 (File Nos. 21402 and 32871).

Petitioner waived its right to an oral hearing and requested that this matter be decided by the State Tax Commission on the basis of a stipulation of facts dated May 12, 1982 and May 21, 1982, an affidavit dated April 29, 1982, and submitted memoranda of law. After due consideration, the State Tax Commission renders the following decision.

ISSUE

Whether keypunching services purchased by petitioner constitute sales of tangible personal property subject to tax under section 1105(a) of the Tax Law or whether the sales made to petitioner constitute an information service which is personal or individual in nature and thereby excluded from tax under section 1105(c)(1).

FINDINGS OF FACT

1. On December 16, 1977 the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner, Ford

Motor Company, Buffalo Stamping Plant, in the amount of \$53,339.38, plus penalty and interest of \$29,627.31, for a total amount due of \$82,966.69 for the period September 1, 1973 through August 31, 1976.

2. The aforementioned amount due was modified by a Notice of Assessment Review issued March 28, 1978 reflecting the disagreed portion of the assessment of \$9,809.87 tax due, plus penalty and interest of \$5,697.93, for a total amount due of \$15,507.80.

3. On November 20, 1980 the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner in the amount of \$23,293.00, plus interest of \$4,857.58, for a total amount due of \$28,150.58 for the period September 1, 1976 through August 31, 1979.

4. Petitioner timely filed petitions protesting both of the issued notices.

5. The assessments here in issue are based on petitioner's purchases of keypunching services from Data Input Services Division of Add-A-Girl, Inc. ("Add-A-Girl") of Buffalo, New York. Petitioner holds a direct payment permit which it used to purchase the above mentioned keypunching services. In addition to paying no sales tax at the time of purchase of the keypunching services, petitioner also paid no use tax on returns filed.

6. Petitioner supplies source documents containing information to be keypunched onto data processing cards. Add-A-Girl picks up petitioner's source documents when the documents are ready for keypunching. Add-A-Girl supplies all necessary data processing cards and keypunches and verifies the information from petitioner's source documents onto the data processing cards. Upon completion of the keypunching operation, Add-A-Girl delivers the data processing cards and source documents to the petitioner.

7. Petitioner pays Add-A-Girl an hourly rate for the service which includes pickup and delivery, data processing cards, keypunching and verification. Add-A-Girl may not use the source documents nor information thereon for any purpose except the account of petitioner.

CONCLUSIONS OF LAW

A. That section 1105(a) of the Tax Law imposes a tax upon the sale of tangible personal property.

B. That section 1105(c)(1) of the Tax Law imposes a tax upon the sale of information services but excludes from tax the services of furnishing information which is personal or individual in nature and which may not be substantially incorporated into reports furnished to other persons.

C. That the primary object sought by petitioner in transactions with Add-A-Girl was not analysis, intellectual skill or new information supplied by Add-A-Girl, but merely a rearranged form of raw material or data. The real object of the transactions, therefore, was not an information service within the meaning and intent of section 1105(c)(1) of the Tax Law, but rather a transfer of tangible personal property in the form of processed data cards and therefore subject to sales tax under section 1105(a) of the Tax law. (See Matter of Finserv Computer Corporation, State Tax Commission, October 30, 1981. See also Accountants Computer Services, Inc. v. Kosydar, 35 Ohio St. 2d 120).

D. That the petition of Ford Motor Company, Buffalo Stamping Plant is denied and the notices of determination and demand for payment of sales and use

taxes due issued December 16, 1977 and November 20, 1980, as modified by the Notice of Assessment Review issued March 28, 1978, are sustained.

DATED: Albany, New York

STATE TAX COMMISSION

OCT 21 1983

*Roderich A. Cline*  
PRESIDENT

*Francis R. Koenig*  
COMMISSIONER

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COMMISSIONER

1 ABSTAIN,

*Mark J. Finkel*

P 481 208 420

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <b>FORD MOTOR COMPANY</b>	
Street and No. <b>P.O. BOX 1899</b>	
P.O., State and ZIP Code <b>DEARBORN, MI 48121-1899</b>	
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 481 208 421

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <b>DRAKE A. MCLEAN</b>	
Street and No. <b>ROOM 529, P.O. BOX 1899</b>	
P.O., State and ZIP Code <b>DEARBORN, MI 48121-1899</b>	
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