

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

November 10, 1983

Ryder Truck Rental, Inc.  
P.O. Box 816  
Miami, FL 33152

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  
Albert M. Uritis  
P.O. Box 816, Sales Tax Dept.  
Miami, FL 33152  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

\_\_\_\_\_  
In the Matter of the Petition :  
of :  
Ryder Truck Rental, Inc. :  
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 3/1/80 - 5/31/80. :  
\_\_\_\_\_ :

AFFIDAVIT OF MAILING

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 10th day of November, 1983, she served the within notice of Decision by certified mail upon Ryder Truck Rental, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Ryder Truck Rental, Inc.  
P.O. Box 816  
Miami, FL 33152

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  
10th day of November, 1983.

Maucha L. Sennelle

Connie A. Hagelund

STATE OF NEW YORK

STATE TAX COMMISSION

\_\_\_\_\_  
In the Matter of the Petition :  
of :  
Ryder Truck Rental, Inc. :  
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 3/1/80 - 5/31/80. :  
\_\_\_\_\_

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 10th day of November, 1983, she served the within notice of Decision by certified mail upon Albert M. Uritis the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Albert M. Uritis  
P.O. Box 816, Sales Tax Dept.  
Miami, FL 33152

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  
10th day of November, 1983.

Martha L. Smuelle

Connie R. Hagelund

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
RYDER TRUCK RENTAL, INC. : DECISION  
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 March 1, 1980 :  
through May 31, 1980.

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Petitioner, Ryder Truck Rental, Inc., P.O. Box 816, Miami, Florida 33152, 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 March 1, 1980 through May 31, 1980 (File No. 35542).

On April 26, 1983, petitioner filed a waiver of hearing and requested that this matter be decided by the State Tax Commission on the basis of the contents of the file. After due consideration, the State Tax Commission renders the following decision.

ISSUE

Whether the penalty asserted against petitioner for the late filing of the estimated monthly sales tax return for March, 1980 should be cancelled.

FINDINGS OF FACT

1. On April 14, 1980, the Processing Division received the March Estimated Monthly Sales Tax Return (ST-803) for 1980, filed by petitioner Ryder Truck Rental, Inc., and payment of \$185,389.00. The due date for said return was March 20, 1980.

2. On August 11, 1980, the Tax Compliance Bureau issued a Notice and Demand for Payment of Sales and Use Taxes Due against petitioner asserting

penalty of \$8,366.58 and interest of \$1,375.33 for the late filing of the above return.

3. Petitioner, by letter dated August 15, 1980, requested waiver of the penalty and interest on the grounds that it did not receive the return from the Department of Taxation and Finance until March 23, 1980.

4. On November 13, 1980, the Audit Division issued a Notice of Assessment Review which sustained the penalty and interest on the basis that non-receipt of the necessary forms was not reasonable cause for failure to timely file the return.

5. Petitioner, by letter dated November 18, 1980, requested the Audit Division to reconsider and added that personnel changeover contributed to the delay in filing the return. Petitioner further relied on its previous record of timely filing all returns.

6. On April 28, 1981, the Audit Division issued a second Notice of Assessment Review which stated that based on the letter of November 18, 1980, as well as petitioner's prior filing record, it would forward the request to the appropriate authority with the recommendation that penalty be abated. However, this required that the interest be paid in full.

On May 6, 1981, petitioner submitted a check for \$1,375.33 in payment of the interest.

7. On May 28, 1981, the Audit Division advised petitioner that the Tax Commission denied its request for abatement of the penalty.

8. On July 24, 1981, petitioner filed a petition seeking redetermination on the grounds that 20 NYCRR 536.1(b)(6) provides that reasonable cause includes "any other cause for delinquency which appears to a person of ordinary prudence and intelligence as a reasonable cause for delay in filing a return and which

clearly indicates an absence of gross negligence or willful intent to disobey the taxing statutes. Past performance will be taken into account. Ignorance of the law, however, will not be considered reasonable cause."

9. The March Estimated Monthly Sales Tax Return (ST-803) for 1980 was mailed to petitioner on February 28, 1980. It was the March part-quarterly return (ST-810) due April 20, 1980 that was received by petitioner on March 23, 1980.

10. Petitioner failed to establish that personnel changes caused the delay in filing the March 1980 estimated return.

CONCLUSIONS OF LAW

A. That petitioner's estimated monthly sales tax return for March, 1980 was required to be filed on or before March 20, 1980 in accordance with section 1137-A of the Tax Law. Section 1145(a)(1) of the Tax Law authorizes the imposition of penalty and interest for failure to file a return or pay over any tax when due. Said section also provides for the Tax Commission's remission of penalty and that portion of interest exceeding the statutory minimum in the event that failure to file a return or pay over any taxes was due to reasonable cause.

B. That petitioner has failed to show that its late filing of the estimated monthly return for March, 1980 and payment thereof was due to reasonable cause.

C. That the petition of Ryder Truck Rental, Inc. is denied and the Notice and Demand for Payment of Sales and Use Taxes Due issued August 11, 1980 is sustained.

DATED: Albany, New York

STATE TAX COMMISSION

NOV 10 1983

Rodriguez  
PRESIDENT  
Francis R. Koenig  
COMMISSIONER  
Mark  
COMMISSIONER  
David

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RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <i>Ryder Truck Rental Inc</i>	
Street and No. <i>PO Box 816</i>	
P.O., State and ZIP Code <i>Miami FL 33152</i>	
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 470 316 236

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to <i>Albert M Ukris</i>	
Street and No. <i>PO Box 816 Sales Tax Dept</i>	
P.O., State and ZIP Code <i>Miami FL 33152</i>	
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