

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Henry P. Drexler :
for Redetermination of a Deficiency or Revision :
of a Determination or Refund of Sales & Use Tax :
under Article 28 & 29 of the Tax Law for the Year :
1982. :

AFFIDAVIT OF MAILING

State of New York :

ss.:

County of Albany :

David Parchuck, being duly sworn, deposes and says that he is an employee of the State Tax Commission, that he is over 18 years of age, and that on the 7th day of November, 1985, he served the within notice of Decision by certified mail upon Henry P. Drexler, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Henry P. Drexler
RD #1, Box 120
Hubbardsville, NY 13355

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
7th day of November, 1985.

David Parchuck

James A. Haglund
Authorized to administer oaths
pursuant to Tax Law section 174

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

November 7, 1985

Henry P. Drexler
RD #1, Box 120
Hubbardsville, NY 13355

Dear Mr. Drexler:

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, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only 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: Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

• In the Matter of the Petition
of
HENRY P. DREXLER
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 1982.

DECISION

Petitioner, Henry P. Drexler, RD #1, Box 120, Hubbardsville, New York 13355, 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 1982 (File No. 46748).

On June 24, 1985, petitioner advised the State Tax Commission, in writing, that he desired to waive a hearing and to submit the case to the State Tax Commission for decision, with all briefs to be submitted by July 29, 1985. After due consideration of the entire file, the State Tax Commission renders the following decision.

ISSUE

Whether sales tax was properly collected upon petitioner's purchase of a truck.

FINDINGS OF FACT

1. Petitioner, Henry P. Drexler, purchased a truck from Smith Norwich, Inc. At the time of the purchase, petitioner paid, under protest, sales tax of \$588.90.

2. On April 18, 1983, petitioner submitted an Application for Refund and/or Credit of Sales Tax Paid on Casual Sale of Motor Vehicle seeking a refund of the sales tax paid at the time of the purchase of the vehicle.

3. On August 4, 1983, the Audit Division denied petitioner's claim for a refund.

4. On September 12, 1983, petitioner filed a petition challenging the denial of the refund of sales tax. In essence, the petition maintained that he should not have been required to pay sales tax since Article 1, Section 10 of the Constitution of the United States of America prohibits a state from making anything but gold and silver coin a tender in payment of debts.

CONCLUSIONS OF LAW

A. That the constitutionality of the laws of the State of New York is presumed at the administrative level.

B. That sales tax was properly imposed upon the purchase of the truck (Tax Law §1105[a]).

C. That the petition of Henry P. Drexler is denied.


DATED: Albany, New York

STATE TAX COMMISSION

NOV 07 1985


PRESIDENT


COMMISSIONER


COMMISSIONER

P 153 387 643

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

★ U.S.G.P.O. 1984-446-014

PS Form 3800, Feb. 1982

Sent to	<i>Henry P. Drizler</i>	
Street and No.	<i>RR #1 Box 180</i>	
P.O., State and ZIP Code	<i>Sh. Franklin NY 13355</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		