

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FORT WILLIAM HENRY CORP.

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the (Year/s) Period 6/1/67: -
5/31/70

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of July , 19 73, she served the within
Notice of Decision (or Determination) by (certified) mail upon Fort William
Henry Corp. (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Fort William Henry Corp.
Cannada Street
Lake George, New York

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

24th day of July , 1973.

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

FORT WILLIAM HENRY CORP.

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Tax Law for the ~~Year(s)~~ Period 6/1/67 -
5/31/70

State of New York
County of Albany

Martha Funaro , being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 24th day of July , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Alan E. Steiner, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Alan E. Steiner, Esq.
Steiner & Steiner
90 State Street
Albany, New York 12207
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

24th day of July , 1973.

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A

STATE CAMPUS
ALBANY, N. Y. 12226

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION

NORMAN F. GALLMAN, ~~President~~ PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

July 24, 1973

**Fort William Henry Corp.
Cannada Street
Lake George, New York**

Gentlemen:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **1243 & 1138** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 Months**
from the date of this notice.

Any inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned.
These will be referred to the proper party for
reply.

Very truly yours,

Paul B. Coburn

HEARING OFFICER

Enc.

cc: Petitioner's Representative
Law Bureau

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
FORT WILLIAM HENRY CORPPORATION	:	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 June 1, 1967	:	
through May 31, 1970.	:	

Applicant, Fort William Henry Corporation, has 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 June 1, 1967 through May 31, 1970. (File No. 90001198). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on January 9, 1973. Steiner & Steiner, Esqs. (Alan E. Steiner, Esq., of Counsel) appeared for the applicant. Saul Heckelman, Esq. (Francis X. Boylan, Esq., of Counsel) appeared for the Sales Tax Bureau.

ISSUE

Were admission charges for admittance to the Fort William Henry historical site restoration and museum received by the Fort William Henry Corporation during the period from June 1, 1967 through May 31, 1970, subject to New York State sales tax?

FINDINGS OF FACT

1. Applicant, Fort William Henry Corporation, filed New York State and local sales and use tax returns for the period from June 1, 1967 through May 31, 1970.

2. On September 9, 1970, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes due against applicant, Fort William Henry Corporation, imposing additional sales tax for the period from June 1, 1967 through May 31, 1970, as a result of a field audit which disclosed additional sales and purchases subject to sales tax. It imposed additional sales tax in the sum of \$18,990.22 and penalty and interest in the sum of \$4,178.64. The auditor determined that the applicant was liable for sales tax on admissions charged the public for entrance to the Fort William Henry historical site restoration and museum located in Lake George, New York. The auditor also made certain other adjustments in the amount of sales tax due which are not being contested by the applicant.

3. Fort William Henry was an English fort constructed by Sir William Johnson in 1755. It operated in the French and Indian Wars until 1757 when French and Indian forces commanded by the Marquis de Montcalm destroyed it. It was reused two years later in the course of an expedition by Abercromby and Amherst against Fort Ticonderoga. In the

1800's the Lake George area became a mecca for wealthy vacationers. Hotels were maintained on the property with the fort site remaining as a private park. In 1953 the fort site was purchased by applicant, Fort William Henry Corporation.

4. Applicant, Fort William Henry Corporation, reconstructed the fort from descriptions contained in original documents, maps and blueprints. It has spent \$1,500,000.00 on restoration of Fort William Henry since 1957. The exhibit area consists of the restored fort and a museum containing artifacts and exhibits related to the history of the fort and the area. Visitors may view a 27-minute audiovisual presentation about the fort. They may also see excerpts from the movie "Last of the Mohicans" which depicts events associated with Fort William Henry. Demonstrations of the firing of muskets and cannons are given during the summer. There is an admission charge to the historic site and museum which is paid by visitors to the applicant.

5. The Fort William Henry historical site restoration and museum is listed in the "Museums Directory of the United States and Canada, Second Edition" published in 1965 by the American Association of Museums and the Smithsonian Institute.

6. Applicant, Fort William Henry Corporation, is a private corporation. It was incorporated in New York State in 1953. It has 400 stockholders. It owns and operates the Fort William Henry historical site restoration and museum in Lake George, New York, the Fort William Henry Motel in Lake George, several retail stores in the Lake George area, a summer theatre and a

restaurant. The profits derived from the operation of the Fort William Henry historical site restoration and museum go into the general funds of the corporation and inure to the benefit of the corporate stockholders.

CONCLUSIONS OF LAW


A. That the net earnings from the admissions charged for admittance to the Fort William Henry historical site restoration and museum during the period June 1, 1967 through May 31, 1970, inured to the benefit of the Fort William Henry Corporation and its private stockholders and therefore such admission charges were not exempt from the New York State sales tax in accordance with the meaning and intent of section 1116(d)(3)(C) of the Tax Law.


B. That the application of Fort William Henry Corporation is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes dated September 9, 1970, is sustained.

DATED: Albany, New York
July 24, 1973

STATE TAX COMMISSION


COMMISSIONER


COMMISSIONER


COMMISSIONER