

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

F. B. T. PROMOTIONS, INC., JAMES FLAHERTY,  
CLEMON T. BENJAMIN, AND VICTOR TRIMMER

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

For a Redetermination of a Deficiency or  
a Refund of Sales and Use :  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~(years)~~ period August 1, 1965  
through May 31, 1968.

State of New York  
County of Albany

Rae Zimmerman , 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 25th day of April , 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon F.B.T. Promotions, Inc.

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows: F.B.T. Promotions, Inc.  
c/o James Flaherty, President  
174-07 Polhemus Avenue  
Jamaica, New York 11433  
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

25th day of April , 19 72

Martha F. ...

Rae Zimmerman

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
F.B.T. PROMOTIONS, INC., JAMES FLAHERTY,  
CLEMON T. BENJAMIN, and VICTOR TRIMMER

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Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~(year(s))~~ period August 1, 1965  
through May 31, 1968.

State of New York  
County of Albany

Rae Zimmerman , 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 25th day of April , 1972 , she served the within  
Notice of Decision (or Determination) by (certified) mail upon Clemon T. Benjamin

(representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Clemon T. Benjamin  
50 South Oxford Street  
Brooklyn, 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

25th day of April , 1972

Maitha F. Funnell

Rae Zimmerman

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
F.B.T. PROMOTIONS, INC., JAMES FLAHERTY,  
CLEMON T. BENJAMIN, and VICTOR TRIMMER

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

For a Redetermination of a Deficiency or  
a Refund of Sales and Use  
Taxes under Article(s) 28 and 29 of the  
Tax Law for the ~~(year)~~ period August 1, 1965  
through May 31, 1968.

State of New York  
County of Albany

Rae Zimmerman, 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 25th day of April, 1972, she served the within  
Notice of Decision (or Determination) by (certified) mail upon

Victor Trimmer (representative of) the petitioner in the within  
proceeding, by enclosing a true copy thereof in a securely sealed postpaid  
wrapper addressed as follows:

Victor Trimmer  
1576 Eastern Parkway  
Brooklyn, 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

25th day of April, 1972.

Martha Fucaro

Rae Zimmerman



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION  
HEARING UNIT

EDWARD ROOK  
SECRETARY TO  
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

BUILDING 9, ROOM 214A

STATE CAMPUS  
ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

ADDRESS YOUR REPLY TO

DATED: Albany, New York  
April 25, 1972

F.B.T. Promotions, Inc.  
c/o James Flaherty, President  
174-07 Polhemas Avenue  
Jamaica, New York 11433


Gentlemen:

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

Please take further notice that pursuant to section(s)  
1138 & 1243 of the Tax Law any proceeding  
in court to review an adverse decision must be commenced  
within 4 months after 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 relating hereto may be  
addressed to the undersigned. These will be referred  
to the proper party for reply.

Very truly yours,

  
Lawrence A. Newman  
Hearing Officer

cc ~~Partitioner's Representative~~

Law Bureau

Clemon T. Benjamin  
50 South Oxford  
Brooklyn, New York

Victor Trimmer  
1576 Eastern Parkway  
Brooklyn, New York

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application	:	
on Behalf of	:	
F.B.T. PROMOTIONS, INC., JAMES FLAHERTY, CLEMON T. BENJAMIN, and VICTOR TRIMMER	:	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 August 1, 1965 through May 31, 1968.	:	

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An application was made on behalf of F.B.T. Promotions, Inc., James Flaherty, Clemon T. Benjamin and Victor Trimmer, 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 August 1, 1965 through May 31, 1968.

A formal hearing was held before Lawrence A. Newman, Hearing Officer, in the offices of the State Tax Commission in the City of New York on February 15, 1972. Messrs. James Flaherty, Clemon T. Benjamin and Victor Trimmer appeared pro se, and as officers of F.B.T. Promotions, Inc. The Sales Tax Bureau was represented by Saul Heckelman, Esq. (Solomon Sies, Esq., of Counsel).

ISSUE

Whether the amount of admission fees reported by the applicant-corporation for sales tax purposes is correct.

FINDINGS OF FACT

1. On October 21, 1968, as a result of the failure of F.B.T. Promotions, Inc. to file quarterly sales tax returns or to submit any records for audit, the Sales Tax Bureau issued an estimated notice

of determination, numbered 90,756,402, in the amount of \$56,500, plus statutory penalties and interest, covering the period from August 1, 1965 through May 31, 1968.

2. On February 6, 1969, F.B.T. Promotions, Inc. filed delinquent New York State sales and use tax returns for the period September 1, 1965 through August 31, 1968. The periods from December 1, 1966 through November 30, 1967, show taxable sales of \$3,070 and sales tax due of \$153.50, which amount was paid at the time of filing, without the addition of any penalties or interest by reason of late payment or filing.

3. On October 21, 1969, as the result of informal conferences held at the New York District Office, and the applicants having failed to submit any records for audit, the original assessment was reduced to an estimated \$7,500. plus statutory penalties and interest, limited to the periods from June 1, 1966 through May 31, 1968.

4. Timely applications for revision of the determinations were filed on behalf of the applicants.

5. The corporation was engaged in holding public dances in various ballrooms and private homes in New York City. The records of the Department of Consumer Affairs of the City of New York indicate that permits were issued to F.B.T. Promotions, Inc. to hold dances. The earliest recorded permit was April 30, 1967, and the latest was January 11, 1968. The officers of the corporation testified that occasionally dances were run without admission fees on slow nights in order to promote business for more desirable nights. The success or failure of a particular promotion depended on the night of the week and the weather conditions.

6. The testimony of the officers in support of the amounts reported on the delinquent tax returns represents the most accurate estimate of the admission fees received from the promotion of public dances by the applicants.

7. The quarterly sales and use tax returns for the periods in issue are accepted as filed.

DETERMINATION

A. The notice of determination is reduced to conform to the taxable sales and sales tax due as shown on the delinquently filed quarterly returns for the periods in issue.

B. Maximum statutory penalties and interest are imposed based upon the sales taxes reported on the filed quarterly returns.

C. The application for revision of the determination is granted in part, in accordance with items (A) and (B) above.

DATED: Albany, New York

*April 25, 1972.*

STATE TAX COMMISSION

*Norman J. Halloran*  
COMMISSIONER

*Bruce Manley*  
COMMISSIONER

*Milton Kremer*  
COMMISSIONER