

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GASLIGHT RIDES, INC.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Sales and Use
Taxes under Article(s) 28 and 29 of the
Tax Law for the ~~Year(s) or~~ Period(s)
3/1/68 to 8/31/73.

State of New York
County of Albany

Bruce Batchelor, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 28th day of February, 1977, he served the within
Notice of Determination by ~~(certified)~~ mail upon Gaslight Rides, Inc.

(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Gaslight Rides, Inc.
Box 511
Lake George, New York 12845

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~~
~~XXXXXX~~) 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

28th day of February, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
GASLIGHT RIDES, INC.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales and Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~XXXXXX~~ Period(s) :
3/1/68 to 8/31/73.

State of New York
County of Albany

Bruce Batchelor , 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 28th day of February , 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Francis T. Roach, Esq.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Francis T. Roach, Esq.
50 Colvin Avenue
Albany, New York 12206

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

28th day of February , 1977.

Bruce Batchelor

Janet Moad



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

February 28, 1977

TELEPHONE: (518) **457-1723**

Gaslight Rides, Inc.
Box 511
Lake George, New York 12845

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1138 and 1243** 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.

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. They
will be referred to the proper party for reply.

Very truly yours,

Paul B. Coburn
Supervising Tax
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
GASLIGHT RIDES, INC.	:	
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, 1968 to August 31, 1973.	:	

DETERMINATION

Applicant, Gaslight Rides Inc., Box 511, Lake George, New York, 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 March 1, 1968 to August 31, 1973. (File No. 00591).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Bldg. 9, State Campus, Albany, New York on May 12, 1976 at 9:45 A.M. Applicant appeared by Francis T. Roach, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Richard M. Kaufman, Esq. of counsel).

ISSUES

I. Whether certain rides installed in an amusement park were subject to New York State sales and use taxes.

II. Whether the assessment was timely made.

FINDINGS OF FACT

1. On September 6, 1974, as the result of an audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against the applicant, Gaslight Rides, Inc. in the amount of \$17,582.97, plus penalty and interest of \$8,444.77 for a total of \$26,027.74. On September 10, 1975, the Sales Tax Bureau issued a Notice of Assessment Review to reflect certain adjustments, so that the adjusted tax due was \$9,357.67, the adjusted penalty and interest was \$4,492.39, and with \$4,217.60 paid on assessment, the adjusted balance due was \$9,632.46.

2, Applicant, Gaslight Rides, Inc., is part of an amusement park complex in Lake George, New York which contains various attractions, displays and rides. The rides in question were ordered, paid for and operated by Gaslight Rides, Inc. whose president and majority stockholder was Charles R. Wood.

3. On October 28, 1969 and November 17, 1970, applicant, Gaslight Rides Inc., contracted with the Frank Hrubetz & Co., Inc. of Salem, Oregon, for two complete rides known as "Round Up Ride" and "Paratrooper Ride", for \$34,000.00 and \$33,000.00 respectively. Installation was to be supervised by the seller. The situs, including the foundation and footings, were prepared by the applicant. Upon their completion, the rides were then placed on the assessment and tax rolls of the Town of Lake George and realty tax was paid thereon. Labor for installation was provided by the applicant.

4. Applicant, Gaslight Rides, Inc., has never filed any New York State sales and use tax returns.

5. Applicant, Gaslight Rides, Inc., cooperated with the Sales Tax Bureau and upon advise of their accountant, did not file returns.

CONCLUSIONS OF LAW

A. That the purchase of the two rides, "Round up Ride" and "Paratrooper Ride" by the applicant, Gaslight Rides, Inc. and the installation by said applicant did not constitute an addition or capital improvement to real property according to the meaning and intent of section 1105(c)(3) of the Tax Law. Therefore, the purchase of the rides was subject to New York sales tax.

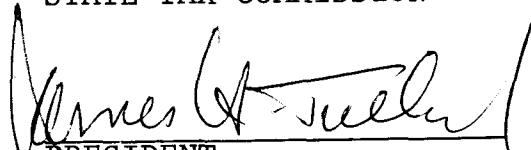
B. That where no return is filed, the tax may be assessed at any time according to the meaning and intent of section 1133(b) of the Tax Law. Therefore, the assessment made against Gaslight Rides, Inc. is timely.

C. That the application of Gaslight Rides, Inc., is granted to the extent that the penalty and interest above minimum is waived; that the Sales Tax Bureau is directed to accordingly modify the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 6, 1974 and adjusted

September 10, 1975; and that except as so granted, the application is in all other respects denied.

DATED: Albany, New York
February 28, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER