

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ALUMNI CLUB OF NEW YORK

For a Redetermination of a Deficiency or
a Refund of Sales & Use Taxes
Taxes under Article(s) 28 & 29 of the
Tax Law for the (Year(s) 1965 - 1967 :

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 21st day of December , 1970 , she served the within Notice of Decision (or Determination) by (certified) mail upon Alumni Club of New York (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Alumni Club of New York, 969 Third Avenue, New York, 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

21st day of December 1970

Edward Rook

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

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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 21st day of December, 1970, she served the within Notice of Decision (or Determination) by (certified) mail upon Robert A. Behren, Esq. (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Robert A. Behren, Esq., 40 West 57th Street, New York, New York, 10019. 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

21st day of December, 1970.

Shirley A. Rees

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ALUMNI CLUB OF NEW YORK, INC. AND	:	
DORAN JACOBS	:	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 from August 1, 1965 through	:	
February 28, 1967	:	

Applicants, Alumni Club of New York, Inc. and Doran Jacobs, have 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 from August 1, 1965 through February 28, 1967 (file #NY7333724). A formal hearing was held before Vincent P. Molineaux, Hearing Officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, at 11:00 a.m., on April 8, 1968. Applicants appeared by Robert A. Behren, Esq.

FINDINGS OF FACT

1. On April 7, 1967, the Sales Tax Bureau issued a notice of determination and demand for payment of sales and use taxes due against applicants, Alumni Club of New York, Inc. and Doran Jacobs, imposing New York State and New York City sales tax upon receipts from the period August 1, 1965 to February 28, 1967, upon the ground that they had failed to file sales tax returns and pay sales taxes due for said period and assessed tax, penalty and interest totalling \$2,159.03.

2. Applicant, Alumni Club of New York, Inc., was a domestic business corporation that during the period from August 1, 1965, to February 28, 1967, conducted weekly social dances at hotels in New York City. It charged admissions to the dances based upon the time of arrival of the participant. Anyone would be admitted upon

payment of the admission fee. However, club members paid a lower admission fee than non-members. A person became an active club member by paying annual dues of \$5.00. This entitled him to a one-year subscription to the Alumni Club News plus the lower admission fee. An active club member would normally expend more than \$10.00 for his initial dues plus dance admissions.

3. The Alumni Club News was published weekly or bi-weekly by applicant, Alumni Club of New York, Inc. It contained sports articles and advertising, basically, about Alumni Club activities. It was not a book. It was mailed to club members. It was not generally available to the public and separate subscriptions were seldom, if ever, sold.

4. Applicants, Alumni Club of New York, Inc. and Doran Jacobs conceded that receipts from the rentals of mailing lists were subject to sales tax.

5. Applicant, Doran Jacobs, was an officer of applicant, Alumni Club of New York, Inc.

CONCLUSIONS OF LAW

A. That social dancing is an ordinary social activity Marcus v. Village of Mamaroneck 16 N.Y.S. 2d 626, 258 App. Div. 328 (2nd Dept. 1940) reversed on other grounds 283 N.Y. 325, 28 N.E. 2d 856 (1940) and is not a sporting activity in which the patron is a participant in accordance with the meaning and intent of Section 1105(f)(1) of the Tax Law; and applicant, Alumni Club of New York, Inc.'s., admission charges therefor were subject to sales tax.

B. That mailing list rentals of Alumni Club of New York, Inc. were subject to sales tax.

C. That Alumni Club News published by applicant, Alumni Club of New York, Inc., was not a periodical exempt from sales tax in accordance with the meaning and intent of Section 1115(a)(5) of

the Tax Law and the receipts from the sales thereof were subject to sales tax.

D. That the dues of active annual members of applicant, Alumni Club of New York, Inc., were normally in excess of \$10.00 a year and therefor subject to sales tax in accordance with the meaning and intent of Section 1105(f)(2) of the Tax Law.

E. That the application of Alumni Club of New York, Inc. and Doran Jacobs for revision is denied.

DATED: Albany, New York

STATE TAX COMMISSION

December 21, 1976

Norman Galtman
COMMISSIONER

Bruce Mouley
COMMISSIONER

Milton Kramer
COMMISSIONER



Alumni Club of New York
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
HEARING UNIT

Edward Rook
EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

NORMAN F. GALLMAN, ACTING PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

Albany, New York

December 21, 1970

Alumni Club of New York
969 Third Avenue
New York, New York

*File with
decision*

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

Please take further notice that pursuant to Section 1138 & 1250
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 relat-
ing 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

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
Department of Taxation and Finance
STATE CAMPUS
ALBANY, N. Y. 12226



REASON CHECKED
RETURNED TO CORRESPONDENT

Onclined

Alumni Club of New York

969 Third Avenue

New York, New York

Paul Ashburn

Alumni

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STATE TAX COMMISSION

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DORAN JACOBS
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DATED: Albany, New York
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