

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CHARLES R. WOOD ENTERPRISES 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 ~~Years(s)~~ or Period(s) :  
March 1, 1970 through August 31, 1973.

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 Charles R. Wood  
Enterprises Inc. (~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Charles R. Wood Enterprises 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~~  
~~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

STATE OF NEW YORK  
STATE TAX COMMISSION

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Taxes under Article(s) 28 & 29 of the  
Tax Law for the ~~Year(s)~~ Period(s)  
March 1, 1970 through August 31, 1973.

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 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 M. [Signature]



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**

Charles R. Wood Enterprises 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 & 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 TAX COMMISSION

In the Matter of the Application :  
of :  
CHARLES R. WOOD ENTERPRISES 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, 1970 through :  
August 31, 1973. :

DETERMINATION

Applicant, Charles R. Wood Enterprises, Inc., Box 511, Lake George, New York 12845. 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, 1970 through August 31, 1973. (File No. 0011133).

A formal hearing was held before Julius E. Braun, Esq., Hearing Officer, at the offices of the State Tax Commission, Bldg. 9, State Campus, Albany, New York, on May 12, 1976 at 10:30 A.M. Applicant appeared by Frances T. Roach, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Richard M. Kaufman, Esq. of counsel).

Whether a display house erected in an amusement park by the applicant was subject to New York State sales and use tax.

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, Charles R. Wood Enterprises, Inc., in the amount of \$1,426.00, plus penalty and interest of \$523.66 for a total of \$1,949.66. Applicant subsequently paid \$490.00 upon one item not now in issue, leaving a balance due of \$936.00 plus penalty and interest of \$430.56 for a total of \$1,366.56.

2. Applicant, Charles R. Wood Enterprises, Inc., is part of an amusement park complex called Storytown U.S.A. which contains various attractions, displays and rides. One such display was a "Futuro II House". The price for the house contracted on January 23, 1971 was \$15,600.00, plus transportation and erection costs which amounted to \$818.00, for a total cost of \$16,418.00. The president and majority stockholder of the corporation was Charles R. Wood.

3. Applicant, Charles R. Wood Enterprises, Inc., prepared the site for the erection of the "Futuro II House" including the foundation, the utilities and the plumbing. The house was transported, in sections, to the site on special trailers and then bolted to the foundation by employees of the seller. Upon completion, the "Futura II House" was placed on the assessment and tax rolls of the Town of Lake George and a realty tax was paid on February 1, 1973.

4. The contract for the erection of the display house between the applicant, Charles R. Wood Enterprises, Inc. and the seller specified the price of the unit. A separate bill was submitted for the cost of the installation.

5. Applicant, Charles R. Wood Enterprises, Inc., cooperated with the Sales Tax Bureau and acted in good faith.

CONCLUSIONS OF LAW


A. That the purchase of the display house known as "Futuro II House" by applicant, Charles R. Woods Enterprises, Inc., was separate and apart from the purchase of the services for installation and therefore 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 said display house was subject to New York State sales tax.

B. That the application of Charles R. Woods Enterprises, Inc. is granted to the extent that the penalty and interest above minimum are 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 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