

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

INTERLEASE CORP.

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 ~~(X)~~
September 1, 1966 through August 31, 1969.

State of New York
County of Albany

John Huhn, 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 13th day of December, 1977, ~~she~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Interlease Corp.

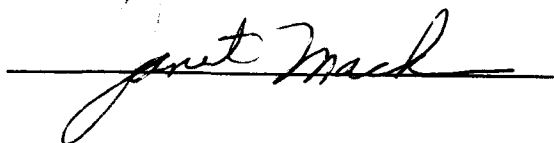
~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:
Interlease Corp.
396 Fifth Avenue
New York, New York 10018

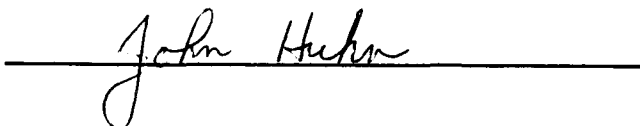
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of)~~
~~XXXXXX~~ petitioner herein and that the address set forth on said wrapper is the
last known address of the ~~(representative of)~~ petitioner.

Sworn to before me this

13th day of December, 1977.





STATE OF NEW YORK
STATE TAX COMMISSION

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of

INTERLEASE CORP.

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(~~X~~) :
September 1, 1966 through August 31, 1969.

State of New York
County of Albany

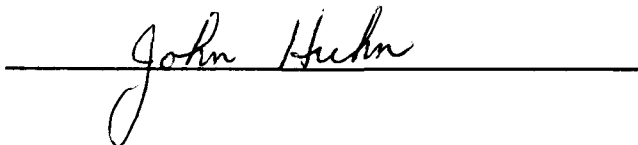
John Huhn , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 13th day of December , 19 77, ~~he~~ served the within
Notice of Determination by (~~certified~~) mail upon Logan Cresap
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Logan Cresap, Esq.
Burchetta, Goldsand & Burchetta, P.C.
48 Gleneida Avenue
Carmel, New York 10512
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

13th day of December , 1977.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

December 13, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

**Interlease Corp.
396 Fifth Avenue
New York, New York 10018**


Gentlemen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,


Joseph Chyrvaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
INTERLEASE CORP.	:	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 September 1, 1966 through	:	
August 31, 1969.	:	

Applicant, Interlease Corp., 396 Fifth Avenue, New York, New York 10018, 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 September 1, 1966 through August 31, 1969 (File No. 10166).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 24, 1977 at 10:45 A.M. Applicant appeared by Logan Cresap, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether the audit conducted by the Sales Tax Bureau of applicant, Interlease Corp's books and records properly reflected additional sales and use taxes due.

FINDINGS OF FACT

1. Applicant, Interlease Corp., was engaged in the business of leasing cars, trucks and industrial equipment on a nationwide

basis. It filed New York State sales and use tax returns for the period September 1, 1966 through August 31, 1969.

2. While conducting a field audit, the Sales Tax Bureau used applicant's records to test the quarter March 1, 1968 through May 31, 1968. It determined that 5.6 percent of the total rentals charged and billed as New York sales were not reported by the applicant for sales tax purposes.

3. The 5.6 percent deficiency was based on an analysis of the applicant's sales for the entire three-month period mentioned above, which was arrived at by computing the rental fee, the tax charged and the total amount collected. The examiners determined the sum of sales tax due, based on total sales, and subtracted from said figure the amount of tax reported. The above percentage was then applied to the entire audit period. A Notice of Determination and Demand for Payment of Sales and Use Taxes Due was issued against applicant on September 21, 1970 in the amount of \$3,547.88, plus penalty and interest.

4. Applicant alleged that due to its method of record keeping, any audit based solely on a three-month period would be inaccurate. This argument was based on the fact that the computer which printed the invoices to the lessees would sometimes be two or three months behind. Therefore, it was applicant's contention that other quarters would show overpayments of sales tax to offset any underpayments in previous quarters. No records, invoices, or documentary evidence was submitted by Interlease Corp. to indicate that such computer overlaps or quarterly overpayments did exist.

5. Applicant also argued that the tax allegedly due was paid in full and it introduced into evidence copies of cancelled checks made out to the State of New York to show such payment. The checks submitted, however, did not correspond to the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 21, 1970.

CONCLUSIONS OF LAW

A. That applicant, Interlease Corp., failed to present any significant documentary or other substantial evidence to prove that the audit conducted by the Sales Tax Bureau did not properly reflect the additional tax due.

B. That the examination of applicant's books and records was properly conducted by the Sales Tax Bureau, which based its determination on available information and external indices, in accordance with section 1138(a) of the Tax Law.

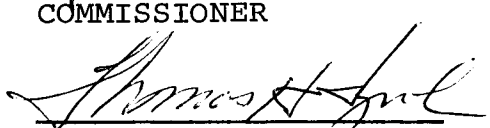
C. That the application of Interlease Corp. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 21, 1970 is sustained.

DATED: Albany, New York
December 13, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

SMALL CLAIMS

TA-26 (4-76) 25M

STATE OF NEW YORK

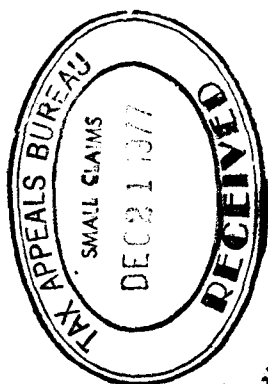
Department of Taxation and Finance

TAX APPEALS BUREAU

STATE CAMPUS

ALBANY, N. Y. 12227

Interlease Corp.
396 Fifth Avenue
New York, New York 10018



12/21/77

9
Overhill Road
Searsdale, NY 10583

STATE OF NEW YORK
STATE TAX COMMISSION

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of
INTERLEASE Corp.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or
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Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~XXXXXX~~ Period(s)
9/1/66 through 8/31/69.

State of New York
County of Albany

John Huhn, 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 22 day of December, 1977, ~~she~~ served the within
Notice of Determination by ~~certified~~ mail upon Interlease Corp.

~~(representative of the)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Interlease Corp.
2 Overhill Road
Scarsdale, NY 10583

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.

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~~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

22 day of December, 1977.

