

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LEGACY GALLERIES LTD.

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s)~~ or Period(s) :
April 1, 1971 to February 28, 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 25th day of May , 19 77, she served the within
Notice of Determination by (~~certified~~) mail upon Legacy Galleries LTD

(~~representative of~~) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Legacy Galleries LTD
Box 78
Lawrence, New York 11559

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

25th day of May , 1977.

Bruce Batchelor

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

May 25, 1977

ADDRESS YOUR REPLY TO

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

Legacy Galleries LTD
Box 78
Lawrence, New York 11559

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,

Enc.

Frank J. Puccia
Supervisor of Small Claims Hearings
cc: ~~petitioner's representative~~

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
LEGACY GALLERIES LTD.	:	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 April 1, 1971 to February 28,	:	
1973.	:	

Applicant, Legacy Galleries Ltd., Box 78, Lawrence, New York, has 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 April 1, 1971 to February 28, 1973. (File No. 00187).

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 October 28, 1976 at 1:15 p.m. Applicant appeared by Noel Goodman, President. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Irwin Levy, Esq. of counsel).

ISSUE

Did the applicant, Legacy Galleries Ltd., make sales to tax exempt organizations and, if so, did it maintain exempt organization certificates confirming these sales?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The applicant, Legacy Galleries Ltd.'s business activities included buying, selling and auctioning a variety of tangible personal properties. Legacy Galleries Ltd. purchased merchandise from dealers or individuals and subsequently auctioned off this merchandise at social or fund raising functions for various organizations.

2. The Sales Tax Bureau audited the books and records of applicant, Legacy Galleries Ltd., and determined additional sales tax due in the sum of \$6,917.54. This tax due resulted from the disallowance of exempt sales by the Sales Tax Bureau on the grounds that the applicant did not maintain the records necessary to confirm these exempt sales.

3. The applicant contended that it acted in the capacity of an auctioneer. It also contended that it sold the merchandise to tax exempt organizations prior to it being auctioned and that the ultimate consumer purchased the merchandise from the exempt organization and not from Legacy Galleries Ltd.

4. The applicant did not produce books, records or other documentary evidence to substantiate that it made sales to exempt organizations or that it made any exempt sales.


5. That the applicant did not sustain the burden of proving that any of their receipts were not taxable as required by section 1132(c) of the Tax Law.

6. That the application of Legacy Galleries Ltd. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued April 17, 1974 is sustained.

DATED: Albany, New York
May 25, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER