

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FANTASY 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~~ 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  
~~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 ~~(XXXXXX)~~ mail upon Fantasy 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: Fantasy 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~~  
~~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 Buck

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FANTASY 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  
~~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 Roach



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**

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

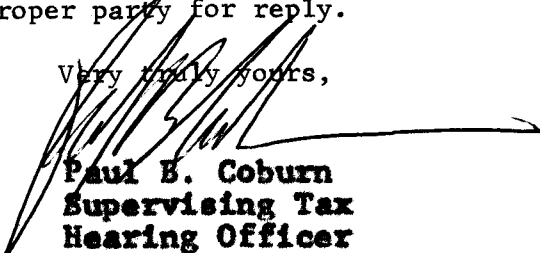
Gentlemen:

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	:	
FANTASY RIDES, INC.	:	
for Revision of a Determination or	:	DETERMINATION
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.	:	

---

Applicant, Fantasy 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. 00590).

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 9:30 A.M. Applicants 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 by the applicant were subject to New York State sales and use taxes.

II. Whether the repair to a ski ride owned by applicant was subject to New York State sales and use taxes.

III. Whether the assessment was timely made.

FINDINGS OF FACT

1. On August 7, 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, Fantasy Rides, Inc., in the amount of \$32,851.56, plus penalty and interest of \$15,298.24, for a total of \$48,149.80. On September 15, 1975, the Sales Tax Bureau issued a Notice of Assessment Review to reflect certain adjustments so that the adjusted tax due was \$22,547.76 and the adjusted penalty and interest \$12,191.04, with \$5,314.02 paid on the assessment, leaving a balance due of \$29,424.78.

2. Applicant, Fantasy Rides, Inc., is part of an amusement park complex called Storytown U.S.A., which contains various attractions, displays and rides. The land is owned under the name of Meadow Run Corp. The rides in question were paid for and are operated by Fantasy Rides, Inc. Part of the one entrance fee to the park and rides collected by Storytown, U.S.A., Inc. was allocated to applicant Fantasy Rides, Inc. Storytown, U.S.A. collected the sales tax upon the entrance fee and filed sales tax returns. The president and majority stockholder in all corporations involved was Charles R. Wood.

3. On July 21, 1970, applicant, Fantasy Rides, Inc. had a special wire rope cable replaced on their ski ride. The installation cost \$1,671.50 and its anticipated life was estimated to be from three to five years. No sales tax was collected by Hopkins Engineer, Inc. of Contoocook, New Hampshire.

4. All rides are installed on footings prepared by the applicant, Fantasy Rides, Inc. All rides were bolted to the footings and could be removed when unbolted. Fantasy Rides, Inc., contracted for a mini-scooter ride. The total cost of the ride was \$21,000.00. Labor as per contract was furnished by the purchaser. Technical advisors were furnished by the seller. The ride was installed and paid for.

5. On December 4, 1968, Storytown, U.S.A., Inc. contracted for the purchase and installation of an amusement ride, "Chance Astro Wheel" for \$ 37,500.00. The contract separately stated and itemized the additional expenses for the installation of the ride.

6. On April 27, 1972, applicant, Fantasy Rides, Inc., contracted for a "TipTop" ride from Frank Hrubetz & Co., Inc. for \$51,750.00. Installation was made by applicant's employees under the supervision of the seller.

7. During the period in issue, applicant, Fantasy Rides, Inc., purchased a "Cyclone" ride from an Italian company for \$90,300.00. Labor for the installation was provided by the applicant and was supervised by seller's technicians.

8. All rides and buildings located within Storytown, U.S.A., were placed on the assessment and tax rolls of the Town of Queensbury, Warren County, prior to May 1 of each year following their construction.

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

10. Applicant, Fantasy Rides, Inc., cooperated with the Sales Tax Bureau and acted in good faith.

#### CONCLUSIONS OF LAW

A. That the purchase of the rides by the applicant, Fantasy 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 there is imposed a New York State sales tax upon the repairing of real property in accordance with the meaning and intent of section 1105(c)(5) of the Tax Law. The replacement of the cable upon the ski tow was such a repair and was therefore subject to New York State sales tax.

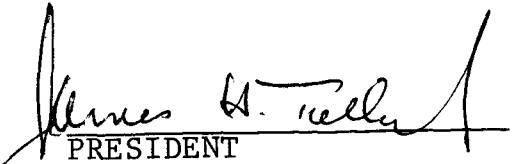
C. That when a customer has failed to pay a tax to a person required to collect the same, then such tax shall be payable by the customer directly to the Tax Commission, and it shall be the duty of the customer to file a return and pay the tax within twenty days

of the date the tax was required to be paid, according to the meaning and intent of section 1133(b) of the Tax Law. Where no return has been filed, the tax may be assessed at any time according to the meaning and intent of section 1147(b) of the Tax Law. Therefore, the assessment with respect to the repair of the ski tow cable and miscellaneous small purchases is timely, according to the meaning and intent of sections 1133(b) and 1147(b) of the Tax Law.

D. That the application of Fantasy Rides, Inc., is granted to the extent that the penalty and interest above minimum is waived; that the Sales Tax Bureau is hereby directed to modify the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued August 7, 1974 and adjusted September 15, 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