

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
DEER HEAD MOBILE HOMES, INC.

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 ~~XXXXXX~~ Period(s) :
June 1, 1971 through August 31, 1974

State of New York
County of Albany

Marsina Donnini, 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 26th day of August, 1977, she served the within

Notice of Decision by ~~(certified)~~ mail upon Deer Head Mobile Homes, Inc.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Deer Head Mobile Homes, Inc.
Room 210 Hancock Building
Niagara Falls, New York

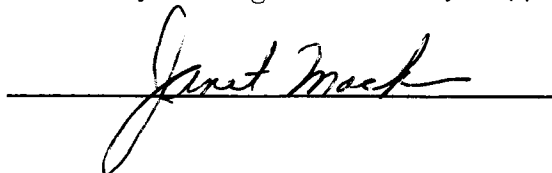
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

26th day of August, 1977.


Marsina Donnini


Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

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DEER HEAD MOBILE HOMES, INC.

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For a Redetermination of a Deficiency or :
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of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the ~~Year(s) 1971~~ Period(s) :
June 1, 1971 through August 31, 1974

State of New York
County of Albany

Marsina Donnini, 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 26th day of August, 1977, she served the within

Notice of Decision by ~~certified~~ mail upon Michael V. Maloney, Esq.

(representative of) the petitioner in the within proceeding,

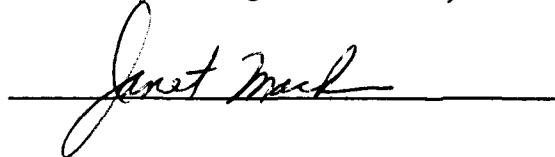
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
Michael V. Maloney, Esq.
as follows: 217 Falls Street
Niagara Falls, New York 14303

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

26th day of August, 1977.







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

August 26, 1977

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

Deer Head Mobile Homes, Inc.
Room 210 Hancock Building
Niagara Falls, New York

Gentlemen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1250** 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,

PAUL B. COBURN
Supervising Tax
Hearing Officer

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE TAX COMMISSION

In the Matter of the Petition :
of :
DEER HEAD MOBILE HOMES, 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 Periods June 1, 1971 through :
August 31, 1974. :

Petitioner, Deer Head Mobile Homes, Inc., with offices at Room 210 Hancock Building, Niagara Falls, New York, filed a petition 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 June 1, 1971 through August 31, 1974 (File No. 12504).

A formal hearing was held before Alan R. Golkin, Esq., Hearing Officer, at the offices of the State Tax Commission, State Office Building, 65 Court Street, Buffalo, New York, on March 7, 1977 at 2:45 P.M. Petitioner appeared by Michael V. Maloney, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Arnold M. Glass, Esq., of Counsel).

Whether petitioner, Deer Head Mobile Homes, Inc., is entitled to a hearing pursuant to section 1138(a) of the Tax Law.

FINDINGS OF FACT

1. The Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due dated April 1, 1975 to petitioner under Notice No. 90,719,952 based on a field audit showing an amount due of \$137,920.98.

2. The Sales Tax Bureau issued an Amended Notice of Determination and Demand for Payment of Sales and Use Taxes Due dated March 19, 1976 under Notice No. 90,719,952 A based on a field audit showing an amount due of \$119,913.07, which notice superseded Notice No. 90,719,952.

3. The petitioner signed a Consent Extending Period of Limitation for Assessment of Sales and Use Taxes under Articles 28 and 29 of the Tax Law on or about September 18, 1974.

4. The petitioner filed a voluntary petition in bankruptcy in the Federal District Court for the Western District of New York on or about November 12, 1974 under case number BK-74-3315.

5. The petitioner corresponded and/or communicated with State Senator Lloyd Patterson regarding the Notices of Determination and Demand referred to above.

6. The petitioner did not, at any time, file a petition or application for a hearing to review the notices of determination as aforementioned, nor did petitioner ever provide the Sales Tax Bureau or the State Tax Commission with a signed statement seeking any such review.

7. The Sales Tax Bureau moved to dismiss this hearing and this matter for petitioner's failure to file a petition.

CONCLUSIONS OF LAW

A. That petitioner, Deer Head Mobile Homes, Inc., failed to file a petition for a hearing to review the notices of determination as required by section 1138(a) of the Tax Law, thereby rendering petitioner to be in non-compliance with the basic procedural requirements establishing his right to the administrative remedy of a formal hearing.

B. That the petition of Deer Head Mobile Homes, Inc. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due, as amended, issued March 19, 1976 is sustained.

DATED: Albany, New York

August 26, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER