

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ITT WORLD COMMUNICATIONS, 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 ~~Year(s)~~ Period(s) :
December 1, 1965 - February 28, 1966.

State of New York
County of Albany

Catherine Steele, 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 17th day of September, 1976, she served the within Notice of Determination by ~~(certified)~~ mail upon ITT World Communications, Inc. ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: ITT World Communications, Inc.
67 Broad Street
New York, New York 10004
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 ~~(representation of the)~~ petitioner.

Sworn to before me this

17th day of September, 1976

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

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For a Redetermination of a Deficiency or :
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she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 17th day of September, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon William D. Maroney, Esq.

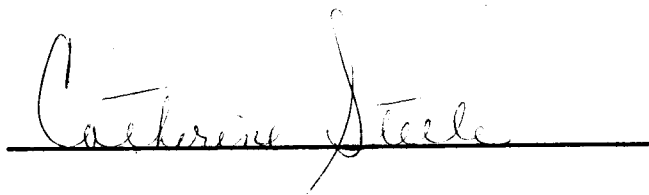
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: William D. Maroney, Esq.
International Telephone & Telegraph Corp.
320 Park Avenue
New York, New York 10022
and by depositing same enclosed in a postpaid 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

17th day of September, 1976.







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

September 17, 1976

TELEPHONE: (518) **457-3850**

ITT World Communications, Inc.
67 Broad Street
New York, New York 10004

Gentlemen:

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

Please take further notice that pursuant to
Section(s) **1139 & 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 | : | |
| ITT WORLD COMMUNICATIONS, INC. | : | 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 December 1, 1965-February 28, | : | |
| 1966. | : | |

Applicant, ITT World Communications, Inc., whose office is located at 67 Broad Street, New York, 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 December 1, 1965 - February 28, 1966. (File No. DP-000591) A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Building 9, State Campus, Albany, New York, on January 18, 1973, at 10:30 A.M. Applicant appeared by William D. Maroney, Esq. The Sales Tax Bureau appeared by Saul Heckelman, Esq. (Solomon Sies, Esq. of counsel).

ISSUE

Is applicant entitled to a refund of sales and use tax on the purchase and installation of a duplex 7300 automatic data exchange system permanently installed in their offices?

FINDINGS OF FACT

1. Applicant, ITT World Communications, Inc., on December 17, 1969, filed an application for credit or refund of New York State and local sales and use tax in the amount of \$68,656.50 plus interest. This amount represented local sales tax paid on a duplex 7300 automatic data exchange system purchased December 21, 1965. The equipment cost \$2,228,550.00 upon which the vendor, ITT Federal Laboratories, Northby, New Jersey, charged and was paid a New York City sales tax of three percent. Said application was denied by the Sales Tax Bureau on January 30, 1970, upon the grounds that the sale was of tangible personal property and that installation took place subsequent to the purchase.

2. Applicant, ITT World Communications, Inc., purchased the duplex 7300 automatic data exchange system by agreement dated June 13, 1962. The cost included equipment and installation. The equipment hardware represented the computer, drum units, tape units, tape storage devices, the controllers and line in the face unit. It is a computer switching system used for international message service with 128 lines which receives messages from the domestic network in the United States, stores the messages and transmits them to various administrations overseas and additionally messages from overseas are received and distributed on a local network or sent overseas as required. The equipment was bolted to a raised floor in a special

air-conditioned room. Openings had to be made to allow air-conditioning to cool the equipment and the 30 to 40 cabinets which comprise the system which is interconnected with the cabling. Installation of the equipment to the acceptance by applicant following testing took some two years. It then became operational.

3. Applicant, ITT World Communications, Inc., on November 7, 1966, filed schedules with the New York City Real Property Assessment Department of additions and retirements for buildings, machinery and equipment owned, leased or used to be assessed for the fiscal year 1967-1968. The duplex 7300 automatic data exchange system was so listed and described for the assessing personnel of the Real Property Assessment Department. Real estate assessment by New York City in the fiscal year July 1, 1967 to June 30, 1968, included said equipment. The real estate tax as assessed was paid as was each succeeding year to date.

CONCLUSIONS OF LAW

A. That in accordance with the meaning and intent of section 1115(a)(12) of the Tax Law exemption from sales and use tax is provided for telegraph equipment for use directly and predominately in receiving at destination or initiating and switching telephone or telegraph communication. The duplex 7300 automatic data exchange

system purchased and installed by applicant, ITT World Communications, Inc., constituted such telegraph equipment for use directly and exclusively in receiving at destination or initiating and switching telegraph communication.

B. That, therefore, the purchase by applicant ITT World Communications, Inc., of the duplex 7300 automatic data exchange system used directly and exclusively in receiving at destination or initiating and switching telegraph communication constituted a purchase not subject to the sales and use tax pursuant to the aforesaid section.

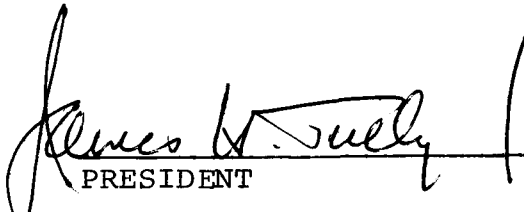
C. That in accordance with the meaning and intent of section 1105(c)(3) exemption from sales tax is provided for by adding to or improving real property by a capital improvement. The installation of a duplex 7300 automatic data exchange system by the applicant, ITT World Communications, Inc., constituted such addition and improvement of real property by a capital improvement.

D. That, therefore the installation of a duplex 7300 automatic data exchange system by the applicant, ITT World Communications, Inc., constituted an installation not subject to the sales and use tax pursuant to the aforesaid section.

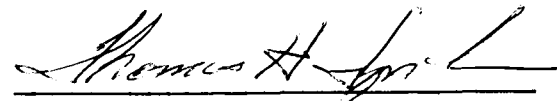
E. That the application of ITT World Communications, Inc.
is granted and, therefore, the application for credit or refund of
local sales tax is granted.

DATED: Albany, New York
September 17, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER