

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MACA REALTY COMPANY, 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) or Period(s)
8/1/65 through 8/31/72.

State of New York
County of Albany

Janet Mack, 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 5th day of August, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon Maca Realty Company, Inc.

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

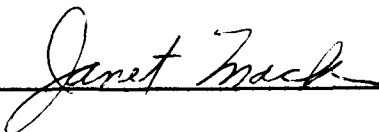
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Maca Realty Company, Inc.
35-41 Academy Street
Poughkeepsie, New York 12101

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 the)~~ petitioner.

Sworn to before me this

5th day of August, 1976.



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MACA REALTY COMPANY, 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 ~~Year(s)~~ or Period(s) :
8/1/65 through 8/31/72.

State of New York
County of Albany

Janet Mack , 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 5th day of August , 1976 , she served the within
Notice of Determination by ~~(certified)~~ mail upon Alessio Matera, Esq.

(representative of) the petitioner in the within proceeding,

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

as follows: Alessio Matera, Esq.
Matera and Matera, Esqs.
54 West Tenth Street

New York, New York 10011

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

5th day of August , 1976.





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

August 5, 1976

TELEPHONE: (518) ~~457-3856~~

Macca Realty Company, Inc.
35-41 Academy Street
Poughkeepsie, New York 12101

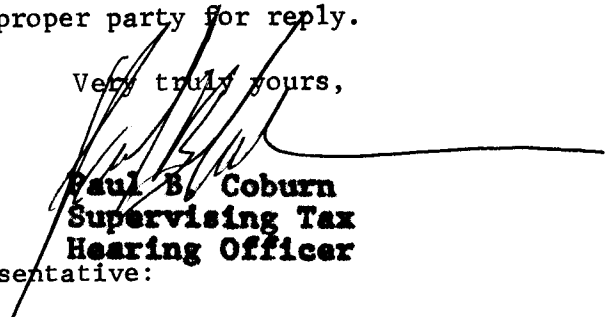
Gentlemen:

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	:	
	:	
MACA REALTY COMPANY, 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 August 1, 1965 through	:	
August 31, 1972.	:	

Applicant, Maca Realty Company, Inc., 35-41 Academy Street, Poughkeepsie, New York 12101, has filed an application for revision of a determination or for refund of sales and use tax under Articles 28 and 29 of the Tax Law for the period August 1, 1965 through August 31, 1972. (File No. 90,749,839). A formal hearing was held before Paul B. Coburn, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 24, 1975, at 1:15 p.m. Applicant appeared by Matera and Matera, Esqs., (Alessio Matera, Esq. of counsel). The Sales Tax Bureau appeared by Saul Heckelman, Esq., (Solomon Sies, Esq. of counsel).

ISSUE

Was fuel oil purchased to heat and electricity purchased to light and cool the premises leased to and occupied exclusively by

the New York State Department of Labor, Division of Employment, exempt from the payment of sales and use tax by the applicant owner of the building in the period August 1, 1965 through August 31, 1972?

FINDINGS OF FACT

1. Applicant, Maca Realty Co., Inc. failed to pay sales tax on fuel oil purchased to heat the portion of the building leased to New York State in the period August 1, 1965 through August 31, 1972. Applicant also failed to pay use tax on electricity used during the period in issue for the portion of the building leased to New York State.

2. On January 12, 1973, a Notice of Determination and Demand for Payment of Sales and Use Taxes Due was issued against applicant, Maca Realty Co., Inc., imposing sales and use tax for the period August 1, 1965 through August 31, 1972, in the amount of \$902.95 tax plus \$427.36 as penalty and interest for a total of \$1,330.31. The applicant, Maca Realty Co., Inc., refused to pay the sales and use tax and made a timely demand for a formal hearing.

3. The first floor of 35 Academy Street, Poughkeepsie, New York, a three story building owned by applicant, Maca Realty Co., Inc., was leased by applicant to the State of New York during the entire period from August 1, 1965 through August 31, 1972.

4. Fuel oil used in heating the first floor occupied by the New York State Department of Labor and electricity used in lighting the said premises were billed to applicant, Maca Realty Co., Inc., during the period in issue.

5. For the period August 1, 1965 through August 31, 1972, there were separate fuel tanks for the boilers used to heat the premises leased by New York State and the balance of the building.

6. For the period August 1, 1965 through August 31, 1972, there was a separate meter in the name of applicant, Maca Realty Co., Inc., for electricity used in the premises occupied by the New York State Department of Labor.

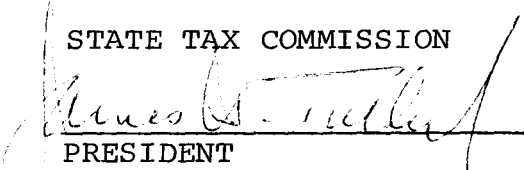
CONCLUSIONS OF LAW

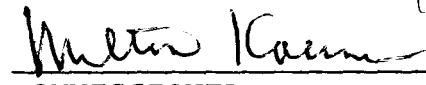
A. That where fuel oil and electricity are used exclusively for the heating and lighting of premises leased to a New York State agency, the purchases are exempt from sales and use tax.

B. That the application of Maca Realty Co., Inc. is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued January 12, 1973, is cancelled.

DATED: Albany, New York
August 5, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER