

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MAC'S SUBURB INN, 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 ~~(x)~~ :
September 1, 1965 through July 1, 1968.

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 4th day of October, 1976, she served the within
Notice of Determination by ~~(certified)~~ mail upon Mac's Suburb Inn, Inc.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mac's Suburb Inn, Inc.
427 Riverleigh Avenue
Riverhead, 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 the)~~
~~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

4th day of October, 1976.

Catherine Steele

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

MAC'S SUBURB INN, 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)~~ Period(s) :
September 1, 1965 through July 1, 1968.

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 4th day of October, 1976, she served the within
Notice of Determination by ~~certified~~ mail upon Charles Raffe, Esq.

(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Charles Raffe, Esq.
Raffe & Raffe
747 East Main Street
Riverhead, New York 11901
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

4th day of October, 1976

Janet Mack

Catherine Steele



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

October 4, 1976

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

Mac's Suburb Inn, Inc.
427 Riverleigh Avenue
Riverhead, New York

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,

Frank J. Puccia
Supervisor of Small
Claims Hearings

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
MAC'S SUBURB INN, 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 September 1, 1965	:	
through July 1, 1968.	:	

Applicant, Mac's Suburb Inn, Inc., 427 Riverleigh Avenue, Riverhead, 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 September 1, 1965 through July 1, 1968. A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 12, 1976. Applicant appeared by Gloria McCormick, President and Charles Raffae, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Louis Senft, Esq. of counsel).

ISSUE

Is applicant's notification of a bulk sale, submitted in the form of a letter, excluding pertinent facts such as selling price,

terms of the sale and conditions thereof, proper notification of said bulk sale?

FINDINGS OF FACT

1. On June 28, 1968, Mr. Charles E. Raffe, applicant's attorney, sent a letter by registered mail to the Sales Tax Bureau stating that a sale of business assets was to take place the first week of July, 1968 between Irma Vanderburgh, the seller, and Mac's Suburb Inn, Inc., the purchaser. This letter indicated that equipment was valued at \$5,000.00. No other information regarding said sale was given.

2. The bulk sale was transacted on July 11, 1968.

3. A Notice of Determination of sales and use taxes (and penalties) was issued on February 20, 1969, against the seller, Irma Vanderburgh and the purchaser, Mac's Suburb Inn, Inc., applicant, under File No. 90,252,700.

4. Applicant, Mac's Suburb Inn, Inc., contends that the notification submitted on June 28, 1968, was timely and proper, regardless of the fact that details concerning said sale were not included; therefore, as purchaser, the applicant cannot be held liable for taxes owed by the seller.

CONCLUSIONS OF LAW

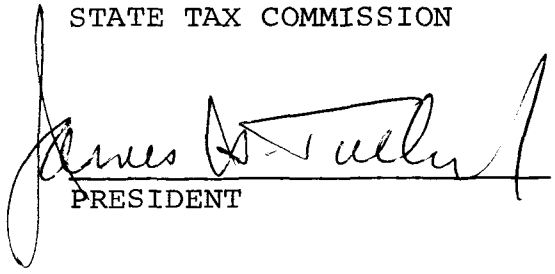
A. That section 1141(c) of the Tax Law provides that the purchaser, in a bulk sale, shall notify the Tax Commission of the "proposed sale and of the price, terms and conditions thereof. . ." Applicant, Mac's Suburb Inn, Inc., did not include the required information and therefore, the notification was not "proper" as required by section 1141(c) of the Tax Law.


B. That application of Mac's Suburb Inn, Inc. is denied and Notice of Determination for payment of sales and use taxes dated February 20, 1969, is sustained.

C. That penalties are abated and interest shall be added to the total amount due until paid.

DATED: Albany, New York
October 4, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER