

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CENTRAL LISTING SERVICE  
& BRONXVILLE LISTING SERVICE, 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)~~ Period(s)  
March 1, 1971 thru May 31, 1974

and March 1, 1974 thru February 28, 1975, respectively  
State of New York  
County of Albany

John Huhn, being duly sworn, deposes and says that

he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 24th day of April, 1978, he served the within

Notice of Determination by ~~(certified)~~ mail upon Central Listing Service  
& Bronxville Listing  
Service, Inc.

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


by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
Central Listing Service  
as follows: & Bronxville Listing Service, Inc.  
P.O. Box 205  
Bronxville, NY

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)~~  
~~(certified)~~ 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

24th day of April, 1978





RECEIVED NATIONAL BUREAU OF INVESTIGATION  
FEDERAL BUREAU OF INVESTIGATION, FBI

TO : SAC, NEW YORK

FROM : SAC, NEW YORK (100-100000)

SUBJECT: [Illegible]

RE: [Illegible]

DATE: [Illegible]

TO :

FROM :

SUBJECT :

RE: [Illegible]

DATE: [Illegible]

TO :

FROM :

SUBJECT :

RE: [Illegible]

DATE: [Illegible]

TO :

FROM :

[Illegible]

[Illegible]

TO :

FROM :

SUBJECT :

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CENTRAL LISTING SERVICE

AFFIDAVIT OF MAILING

& BRONXVILLE LISTING SERVICE, INC.

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~~ Period(s)

March 1, 1971 thru May 31, 1974

and March 1, 1974 thru February 28, 1975, respectively

State of New York

County of Albany

John Huhn, being duly sworn, deposes and says that  
he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 24th day of April, 1978, he served the within  
Notice of Determination by ~~(certified)~~ mail upon Mortimer C. Low, CPA

(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mortimer C. Low, CPA  
81 Pondfield Rd.  
Bronxville, NY 10708

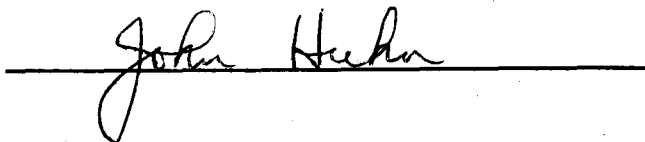
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

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

24th day of April, 1978







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

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

**April 24, 1978**

**Central Listing Service  
& Bronxville Listing Service Inc.  
P.O. Box 205  
Bronxville, NY**

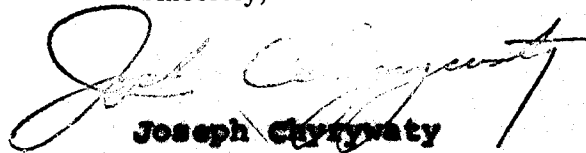
**Gentlemen:**

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** 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,

  
**Joseph Chyrvaty  
Hearing Examiner**

cc: Petitioner's Representative  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application :

of :

CENTRAL LISTING SERVICE :

DETERMINATION

and :

BRONXVILLE LISTING SERVICE, 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 March 1, 1971 through May 31,  
1974 and March 1, 1974 through February 28,  
1975, respectively. :

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Applicants, Central Listing Service and Bronxville Listing Service, Inc.,  
P.O. Box 205, Bronxville, 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 periods March 1, 1971 through May 31, 1974 and March 1, 1974  
through February 28, 1975, respectively (File Nos. 10070 and 10049).

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at  
the offices of the State Tax Commission, Two World Trade Center, New York, New York,  
on June 29, 1977 at 1:15 P.M. Applicants appeared by Mortimer C. Low, CPA and  
Jeffrey Witzman, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Irving  
Atkins, Esq., of counsel).

ISSUE

Whether applicants' services (which consisted of compiling and furnishing lists  
of real estate available for sale and rental to their respective members) constituted  
the sale of a taxable information service within the meaning and intent of section  
1105(c)(1) of the Tax Law.

FINDINGS OF FACT

1. Applicant Central Listing Service was a partnership, the members of which were Bronxville (New York) area real estate brokers. Its operations were taken over on or about June 1, 1974 by applicant Bronxville Listing Service, Inc., a New York not-for-profit corporation which was formed by the members of the partnership.

2. The applicants operated in exactly the same manner. They prepared lists of real estate available for sale and rental in the Village of Bronxville and distributed the lists to their members. These lists (called "flimsies") were usually typed on one or two pages and contained information regarding the property listed, such as the address and a brief description of the property. No pictures were included with the flimsies that were sent to the members for their own use. The flimsies were not resold to anyone.

3. The applicant employed a secretary who typed and distributed the flimsies. The expenses of applicants involved a secretary's salary, telephone, stationery, postage and other miscellaneous office expenses. Each month the members were required to contribute a specific sum in order to pay the secretary's salary and the office expenses. These payments were fixed at an amount which would generate no profit for applicants. If it turned out that this payment generated a surplus, then the next month's payment would be reduced accordingly. Monthly payments made by the members ranged periodically from \$25.00 to \$50.00.

4. As the result of a desk audit and a conference with applicant's representative, the Sales Tax Bureau determined that the monthly payments were actually receipts by applicants for the rendering of a taxable information service within the meaning and intent of section 1105(c)(1) of the Tax Law. Therefore, on

December 2, 1975, the Sales Tax Bureau issued notices of determination and demand for payment of sales and use taxes due against Central Listing Service for taxes due of \$1,115.73, plus penalty and interest for the period March 1, 1971 through May 31, 1974, and against Bronxville Listing Service, Inc. for taxes due of \$293.90, plus penalty and interest for the period March 1, 1974 through February 28, 1975. The Sales Tax Bureau's computation of taxes due was based on applicant's total income, including \$148.82 in interest income on savings deposits received by applicant, Central Listing Service.

5. The applicants contended that the payments were actually contributions to capital and were not payments for the rendering of an information service. Applicants also argued that the contributions were listed on the books of each member as an administrative expense.

#### CONCLUSIONS OF LAW

A. That the definition of sale includes the rendering of any service taxable under this article (Tax Law section 1101(b)(5)).

B. That the monthly payments made by members of the Central Listing Service and Bronxville Listing Service, Inc. were payments for furnishing an information service in accordance with the meaning and intent of section 1105(c)(1) of the Tax Law; thus, they were subject to tax.

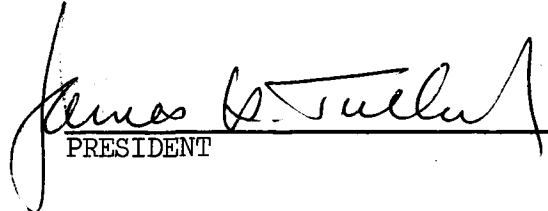
C. That the Sales Tax Bureau erroneously included interest income of \$148.82 as receipts subject to tax of applicant Central Listing Service.

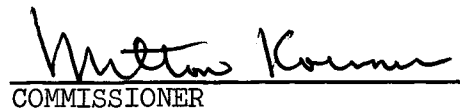
D. That the application of Central Listing Service is granted to the extent indicated in Conclusion of Law "C"; that the Sales Tax Bureau is hereby directed to accordingly modify the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued December 2, 1975, and that, except as so granted, the application is in all other respects denied.

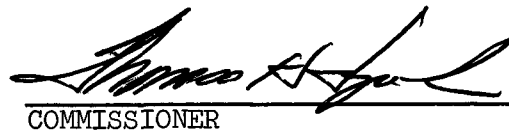
E. That the application of Bronxville Listing Service, Inc. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued December 2, 1975 is sustained.

DATED: Albany, New York  
April 24, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER