

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

CENTURY THEATERS, 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 and 29 of the :  
Tax Law for the ~~Year(s)~~ Period ~~(x)~~ :  
ending November 30, 1973.

State of New York  
County of Albany

John Huhn , 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 1st day of September , 1978, she served the within  
Notice of Determination by ~~(certified)~~ mail upon Century Theaters, Inc.

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Century Theaters, Inc.  
15 Verbena Avenue  
Floral Park, New York

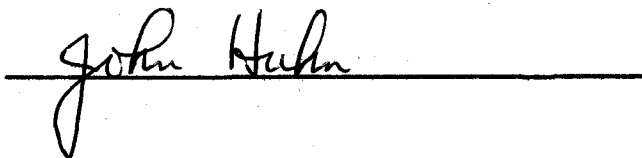
and by depositing same enclosed in a postpaid properly addressed wrapper in a  
(post office or official depository) under the exclusive care and custody of  
the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the ~~(representative of the)~~  
~~petitioner~~ 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

1st day of September , 1978.





STATE OF NEW YORK  
STATE TAX COMMISSION

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CENTURY THEATERS, INC.

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For a Redetermination of a Deficiency or :  
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Taxes under Article(s) 28 and 29 of the :  
Tax Law for the ~~XXXXXX~~ Period (X) :  
ending November 30, 1973.


State of New York  
County of Albany

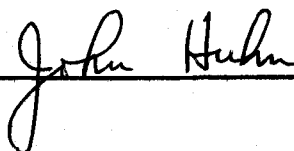
John Huhn , being duly sworn, deposes and says that  
he is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 1st day of September , 1978, he served the within  
Notice of Determination by ~~(certified)~~ mail upon Robert S. Fink  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Robert S. Fink, Esq.  
Kostelanetz & Ritholz  
80 Pine Street  
New York, New York 10005  
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

1st day of September , 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

**September 1, 1978**

**Century Theaters, Inc.  
15 Verbena Avenue  
Floral Park, New York**

**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 and 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,

**Michael Alexander  
Supervising Tax  
Hearing Officer**

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	:	
CENTURY THEATERS, 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	:	
ending November 30, 1973.	:	

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Applicant, Century Theaters, Inc., 15 Verbena Ave., Floral Park, 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 ending November 30, 1973 (File No. 15044).

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 16, 1977 at 1:15 P.M. Applicant appeared by Kostelanetz & Ritholz (Robert S. Fink, Esq., of counsel). The Sales Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether admissions to a theater to view a closed-circuit television broadcast of a live boxing match, which originates outside New York State, is subject to the imposition of sales tax.

FINDINGS OF FACT

1. On March 11, 1976 pursuant to audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant, Century Theaters, Inc., for the period ending November 30, 1973 in the amount of \$3,958.00, plus penalty and interest of \$2,280.76, for a total due of \$6,238.76.

2. Applicant, Century Theaters, Inc., was a corporation that operated a theater during the period in issue and which used its facilities to project (on their screens) what was known as closed-circuit telecasts of a live boxing match held outside New York State. The transmittal was made directly to the theater over telephone wires. The main attraction of the showing was a championship fight involving Muhammad Ali. On September 10, 1973, Ali fought Ken Norton. Total receipts received for the viewing are not in issue.

CONCLUSIONS OF LAW

A. That section 1105(f)(1) of the Tax Law provides, in part as follows:

"Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, except charges for admission to race tracks, boxing, sparring, or wrestling matches or exhibitions which charges are taxed under any other law of this state, or dramatic or musical arts performances, or motion picture theaters,...." Therefore, since applicant, Century Theaters, Inc. presented a closed-circuit telecast of a live sporting event held outside the state, it was not taxed under any other law of this state, and since the charge for admission was not for a motion picture, the admission charge was subject to the imposition of sales tax for the use of a place of amusement.

B. That the application of Century Theaters, Inc. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued March 11, 1976 is sustained.

DATED: Albany, New York  
September 1, 1978

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER