

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
SKY ISLAND CLUB

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 ~~XXXXXX~~ Period ~~(s)~~ :
Period August 1, 1965 through February 28,
1975.

State of New York
County of Albany

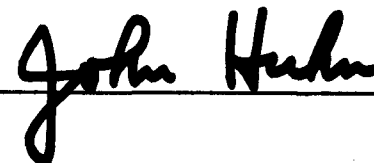
John Huhn, being duly sworn, deposes and says that
he is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 20th day of September, 1978, he served the within
Notice of Determination by ~~XXXXXX~~ mail upon Sky Island Club
~~Representative of~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Sky Island Club
303 Sunnyside Boulevard
Plainview, New York 11803
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~~
~~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

20th day of September, 1978.





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Period August 1, 1965 through February 28,
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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 20th day of September , 1978, ~~He~~ served the within
Notice of Determination by ~~XXXXXXXXXX~~ mail upon Leonard Fessler
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Leonard Fessler
303 Sunnyside Blvd.
Plainview, New York 11803
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

20th day of September , 1978.

[Signature]

John Huhn



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 20, 1978

Key Island Club
303 Sunnyside Boulevard
Plainview, New York 11803

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) **1130 & 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 CHIRBA
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application

of

SKY ISLAND CLUB

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
February 28, 1975.

DETERMINATION

Applicant, Sky Island Club, 303 Sunnyside Boulevard, Plainview,
New York 11803, 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 August 1, 1965 through February 28, 1975
(File No. 11095).

A small claims hearing was held before Joseph Milack, Hearing
Officer, at the offices of the State Tax Commission, Two World Trade
Center, New York, New York on May 27, 1977 at 1:15 P.M. Applicant
appeared by Leonard Fessler, treasurer of the Long Island Commercial
Review, Inc. The Sales Tax Bureau appeared by Peter Crotty, Esq.
(Abraham Schwartz, Esq., of counsel).

ISSUE

Whether applicant is subject to the sales tax imposed on club
dues in accordance with the provisions of section 1105(f)(2) of the
Tax Law.

FINDINGS OF FACT

1. On November 14, 1975 as the result of an audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against applicant, Sky Island Club, for \$24,929.61 in tax, plus penalty and interest of \$14,158.40, for a total due of \$39,088.01, for the period August 1, 1965 through February 28, 1975.

2. On January 26, 1976, Leonard Fessler, treasurer of the Long Island Commercial Review, Inc., filed an application for a hearing to revise the aforementioned determination.

3. The Sky Island Club was formed in 1958 as a promotion for the Sky Club Restaurant owned by one Elliot Murphy and located atop the Franklin National Bank Building at Roosevelt Field. It was formed to increase business at the restaurant. Mr. Paul Townsend was public relations director of the restaurant and managed the Sky Island Club's events in that capacity. No separate accounts were kept. With Mr. Murphy's death in 1966 came the demise of the Sky Club Restaurant and the Sky Island Club became inactive.

4. In 1968 the Sky Island Club was revived by Paul Townsend on behalf of the Long Island Commercial Review, Inc., in order to promote its advertising and public accounts and to attract new clients. The Long Island Commercial Review, Inc. is a domestic corporation organized

under the laws of the State of New York, having a principal place of business at 303 Sunnyside Boulevard, Plainview, New York. The aforementioned corporation publishes the weekly L.I. Business Review, other regional publications, several newsletters and bulletins for local corporations and renders public relations services for several institutions and associations. Paul Townsend is president and Leonard Fessler is treasurer of Long Island Commercial Review, Inc.

5. The Sky Island Club was operated by the Long Island Commercial Review, Inc. as an adjunct of its public relations business and publication of the L.I. Business Review. The "Club" holds 5 to 7 "Fall Guy Luncheons" each year (using various local catering halls) and salutes well-known regional personalities. The members of the "Club" pay an annual assessment of \$65.00 for which they receive the privilege of having their name on promotional letterheads, luncheon programs and published newsletters. The "Fall Guy Luncheons" which constitute the only function of the "Club" are \$17.50 per person. The officers of the "Club" are honorary members and have no function. No meetings are held. There is no separate treasury. The "Club" has no office or bank account.

6. The Long Island Commercial Review, Inc. is a registered vendor and reported in its gross sales the annual assessments collected from members of the Sky Island Club and the gross receipts from the

"Fall Guy Luncheons." Sales tax was paid to the caterers for the luncheons.

CONCLUSIONS OF LAW

A. That the Sky Island Club is not a separate entity but is a promotional device operated by the Long Island Commercial Review, Inc. in furtherance of its business and as an adjunct thereof.

B. That the Sky Island Club is not liable for sales tax imposed upon club dues within the meaning and intent of section 1105(f) (2) of the Tax Law.

C. That the application of Sky Island Club is granted and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued November 14, 1975 is hereby cancelled.

DATED: Albany, New York
September 20, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER