STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of Renna & Guercio Carting, 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 Period Ended June 30, 1983.	:
	AFFIDAVIT OF MAILING
In the Matter of the Petition of Two Guys Sanitation, 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 Period Ended June 30, 1983.	:

State of New York :

ss.:

County of Albany :

David Parchuck/Connie Hagelund, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 28th day of January, 1986, he/she served the within notice of Decision by certified mail upon Renna and Guercio Carting Co., Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Renna and Guercio Carting Co., Inc.
91 Main Street
Kings Park, NY 11754

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of January, 1986.

David Parchuck

Connie A. Hagelund

Authorized to administer oaths
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of Renna & Guercio Carting, Inc.	:
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State of New York :
ss.:
County of Albany :

David Parchuck/Connie Hagelund, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 28th day of January, 1986, he served the within notice of Decision by certified mail upon Milton Shaiman, the representative of the petitioners in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Milton Shaiman
1 Rural Place
Commack, NY 11725

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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
28th day of January, 1986.

David Parchuck

Connie A Hagelund
Authorized to administer oaths
pursuant to Tax Law section 174

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

January 28, 1986

Renna and Guercio Carting Co., Inc.
91 Main Street
Kings Park, NY 11754

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1138 of the Tax Law, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law 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:

NYS Dept. Taxation and Finance
Law Bureau - Litigation Unit
Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Milton Shaiman
1 Rural Place
Commack, NY 11725
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of Renna & Guercio Carting, 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 Period Ended June 30, 1983.	AFFIDAVIT OF MAILING
In the Matter of the Petition of Two Guys Sanitation, 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 Period Ended June 30, 1983.	

State of New York :
ss.:
County of Albany :

David Parchuck/Connie Hagelund, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 28th day of January, 1986, he/she served the within notice of Decision by certified mail upon Two Guys Sanitation, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Two Guys Sanitation, Inc.
P.O. Box 3071
South Farmingdale, NY 11735

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
28th day of January, 1986.

David Parchuck

Connie A. Hagelund
Authorized to administer oaths
pursuant to Tax Law section 174

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

January 28, 1986

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P.O. Box 3071
South Farmingdale, NY 11735

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Building #9, State Campus
Albany, New York 12227
Phone # (518) 457-2070

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Milton Shaiman
1 Rural Place
Commack, NY 11725
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition of RENNA & GUERCIO CARTING, 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 Period Ended June 30, 1983.	DECISION
In the Matter of the Petition of TWO GUYS SANITATION, 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 Period Ended June 30, 1983.	

Petitioner Renna & Guercio Carting, Inc., 91 Main Street, Kings Park, New York 11754, filed a petition 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 ended June 30, 1983 (File No. 48637).

Petitioner Two Guys Sanitation, Inc., P.O. Box 3071, South Farmingdale, New York 11735, filed a petition 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 ended June 30, 1983 (File No. 48636).

A consolidated hearing was held before Frank A. Landers, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on July 25, 1985 at 1:15 P.M. with all briefs to be submitted by August 9,

1985. Petitioners appeared by Milton Shaiman, Esq. The Audit Division appeared by John P. Dugan, Esq. (Joseph Pinto, Esq., of counsel).

ISSUE

Whether the sale of "collection stops" is subject to tax as the sale of an information service pursuant to the meaning and intent of section 1105(c)(1) of the Tax Law.

FINDINGS OF FACT

1. On October 11, 1983, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner Renna & Guercio Carting, Inc. ("Renna") for taxes due of $36,954.06, plus penalty of $1,847.70 and interest of $256.09, for a total due of $39,057.85 for the period ended June 30, 1983.

2. On October 11, 1983, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner Two Guys Sanitation, Inc. ("Two Guys") for taxes due of $36,954.06, plus penalty of $1,847.70 and interest of $256.09, for a total due of $39,057.85 for the period ended June 30, 1983.

3. On December 8, 1983, each of the petitioners herein timely filed a petition for a hearing to review the Notice of Determination. The petitioners claim that the sale of "collection stops" represents the sale of goodwill, an intangible asset, and is therefore not subject to the sales tax.

4. It is the position of the Audit Division that the sale of collection stops represents the sale of a taxable information service pursuant to section 1105(c)(1) of the Tax Law.

5. On July 1, 1983, petitioner Renna sold to petitioner Two Guys certain assets of a residential garbage collection business which Renna had operated

in the Town of Babylon. Pursuant to the Asset Purchase Agreement, the assets sold included:

"I. Sale of Assets

A. Vehicles. The Seller agrees to sell to the Buyer, and the Buyer agrees to buy from the Seller, the two (2) vehicles more particularly described in Exhibit A (hereinafter the 'Vehicles'), on an 'as-is, where-is' basis.

B. Collection Stops. The Seller agrees to sell to the Buyer, and the Buyer agrees to buy from the Seller, any and all right, title and interest which the Seller may have in the collection stops that are more specifically described in Exhibit B (hereinafter the 'Collection Stops') in the Town of Babylon."

6. Exhibit B provided the following:

"Good Will, being the right to service all the customers of Renna & Guercio Carting, Inc. in the Town of Babylon that were shown and serviced together with Two Guys Sanitation, Inc. for the trial period."

7. On July 7, 1983, Two Guys mailed a Notification of Sale, Transfer or Assignment in Bulk to the Audit Division advising it of the above sale and the scheduled date of sale of June 30, 1983. Pursuant to the Notification, the selling price of the assets was $491,625.00 ($9,500.00 for the vehicles and $482,125.00 for the collection stops). The Audit Division computed a tax due on the collection stops of $34,954.06 ($482,125.00 x 7¼%) plus an estimated tax due from Renna for the period June 1 through June 30, 1983 of $2,000.00 for a total amount due of $36,954.06. It should be noted that prior to the hearing Renna filed a return for the above period and, therefore, the $2,000.00 is no longer due from petitioners.

8. The selling price of the estimated 2,000 customers encompassing the collection stops was based on two years gross revenue generated by said stops. The names and addresses of the customers were transferred from Renna to Two Guys as follows: James Armstrong, president of Two Guys, was allowed to ride

the collection vehicles for a two month period prior to the transfer. Mr. Armstrong presumably wrote down whatever information was necessary to enable Two Guys to service the customers after the transfer. The customers were serviced three times per week, therefore, Mr. Armstrong was able to gather considerable information. This is the only manner in which Two Guys received the names and addresses of the collection stops and Renna did not furnish any such information by printed matter or by duplicating written or printed matter in any manner such as by tapes, discs, electronic readouts or displays.

CONCLUSIONS OF LAW

A. That section 1105(c)(1) of the Tax Law provides, in pertinent part, for the imposition of a tax upon the service of the furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner.

B. That, in this case, the sale of collection stops was not the sale of an information service pursuant to the meaning and intent of section 1105(c)(1) of the Tax Law.

C. That the petitions of Renna & Guercio Carting, Inc. and Two Guys Sanitation, Inc. are granted and the notices of determination and demand for payment of sales and use taxes due issued October 11, 1983 are hereby cancelled.

DATED: Albany, New York

JAN 28 1986

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER

P 684 313 225

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to Kenny + Guercio Carting Inc.	
Street and No. 91 Main St	
P.O., State and ZIP Code Kings Park, N.Y 11754	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$
Postmark or Date	

PS Form 3800, Feb. 1982 ★ U.S.G.P.O. 1983-403-517

P 684 313 226

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to Two Guys Sanitation Inc.	
Street and No. P.O. Box 3071	
P.O., State and ZIP Code South Farmingdale, N.Y 11735	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$
Postmark or Date	

PS Form 3800, Feb. 1982 ★ U.S.G.P.O. 1983-403-517

P 684 313 227

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to Miller Shaiman	
Street and No. 1 Rural Place	
P.O., State and ZIP Code Commack, N.Y 11725	
Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	$
Postmark or Date	

PS Form 3800, Feb. 1982 ★ U.S.G.P.O. 1983-403-517

TA-26 (7/85)
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
W. A. Harriman Campus
ALBANY, N.Y. 12227

CERTIFIED

P 684 313 225

MAIL

OE

Renna and Guercio Carting Co., Inc.
91 Main Street
Kings Park, NY 11754

RECEIVED
FEB 10 1986
TAX APPEALS BUREAU

TA-36 (9/76) State of New York - Department of Taxation and Finance
Tax Appeals Bureau

S.T.

REQUEST FOR BETTER ADDRESS

Requested by		Date of Request
Tax Appeals Bureau Room 107 - Bldg. #9 State Campus Albany, New York 12227	~~Unit~~ Appeals Bureau Room 107 - Bldg. #9 State Campus Albany, New York 12227	2/11/86

Please find most recent address of taxpayer described below; return to person named above.

Social Security Number	Date of Petition
	Dec. 1/28/86

Name
Renna and Guercio Casting Co., Inc.

Address
91 Main Street
Kings Park, N.Y. 11754

Results of search by Files

☐ New address:

☐ Same as above, no better address

☒ Other: Unclaimed

Searched by	Section	Date of Search
DS		2/11/86

PERMANENT RECORD

FOR INSERTION IN TAXPAYER'S FOLDER

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

January 28, 1986

Renna and Guercio Carting Co., Inc.
91 Main Street
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cc: Petitioner's Representative
Milton Shaiman
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JAN 28 1986

STATE TAX COMMISSION

PRESIDENT

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