

Nassau County
Office of the Comptroller



Review of Entertainment Surcharge Tax - Nikon at Jones Beach Theater
(Managed by Beach Concerts Inc., a subsidiary of Live Nation)

GEORGE MARAGOS

Comptroller

July 1, 2015

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

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Executive Summary

Beach Concerts Inc. is required to pay Nassau County an Entertainment Surcharge Tax of \$1.50 per seat sold for events at the Nikon at Jones Beach Theater in accordance with Chapter 179 of the Laws of New York 2000, Local Law No. 28-2000. The Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulation¹ allows tax-exempt organizations to be exempt from the tax.

Key Finding:

Beach Concerts Inc. owes the County a total of \$2,488 for the period January 1, 2012 to June 30, 2014. This amount includes surcharge taxes of \$1,476 related to our audit finding on 984 complimentary tickets of value issued to the media during the audit period, plus penalties of \$738 and interest of \$274.

The audit found that 984 complimentary tickets issued to radio, television stations and media were not included on the Beach Concerts Inc.'s tax returns.

Key Recommendation:

Beach Concerts Inc. should remit the amount owed of \$2,488 to the County for the unreported complimentary tickets issued to the radio, television and media.

The matters covered in this report have been discussed with the officials of Beach Concerts Inc. On May 18, 2015, we submitted a draft letter with the findings to Beach Concerts Inc. for their review. Beach Concerts Inc. provided their response on June 17, 2015. Their response and our follow up to their response are included as an Appendix to this report.

¹ Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-93.0 Exemptions.

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Introduction

Background

The Comptroller's Office has completed its review of Beach Concerts, Inc.'s payment of the Entertainment Surcharge Tax for events held at the Nikon at Jones Beach Theater ("Jones Beach Theater"), managed by Beach Concerts Inc. (a subsidiary of Live Nation).

The Entertainment Surcharge Tax regulation imposes a surcharge tax of \$1.50 per ticket for entertainment events held in Nassau County at venues having a permanent seating capacity of at least 2,500 seats. The Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulation² also allows tax-exempt organizations to be exempt from the tax. According to New York Tax Law Chapter 179.2 (Section 1202(d)(iii)), "such tax may be collected and administered by the county treasurer or other fiscal officers of Nassau county by such means and in such manner as other taxes which are now collected and administered by such officers or as otherwise may be provided by such local law, ordinance or resolution". In order to be eligible for this exemption, the organization must have a valid tax-exempt certificate and be the direct payer of record.³ Any entity failing to pay the \$1.50 surcharge tax shall be subject to a penalty of fifty percent on the tax amount due plus interest of nine percent per annum, compounded daily on the total tax and penalty amount.⁴

In addition to selling tickets to the public, Beach Concerts Inc. also issues complimentary tickets of value to the media. As shown in Exhibit I, Beach Concerts Inc. sold a total of 998,543 tickets and paid \$1,497,815 to the County for events held at the Jones Beach Theater from January 1, 2012 to June 30, 2014.

Exhibit I

**Beach Concerts Inc. Entertainment Surcharge Taxes Paid and Tickets Sold
Nikon at Jones Beach Theater
2012 to June 30, 2014**

Year	Tickets Sold	Taxes Paid
2012	388,369	\$ 582,554
2013	336,356	\$ 504,534
2014	273,818	\$ 410,727
Total	998,543	\$ 1,497,815

² Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-93.0 Exemptions.

³ New York State Department of Taxation and Finance, Publication 843 (12/09), A Guide to Sales Tax in New York State for Exempt Organizations, page 16.

⁴ Nassau County Administrative Code, Article 3a Entertainment Surcharge Regulations §5-104.0.a,b.

Introduction

Audit Scope, Objectives, and Methodology

The objective of the audit was to review the entertainment tax revenues collected by the Office of the Nassau County Treasurer to ensure that the taxes were computed correctly, remitted in a timely manner, and properly recorded in the County's accounting system, the Nassau Information Financial System ("NIFS"). Our review period was from January 1, 2012 to June 30, 2014.

The auditors reviewed all the monthly tax returns during the scope period and tested the number tickets sold and for compliance with the tax-exempt guidelines. The tax returns submitted by Beach Concerts Inc. were compared to the Ticketmaster reports⁵ to verify the accuracy of the number of tickets sold and complimentary tickets issued. We also examined documents to support the tax-exempt tickets sold.

We believe our review provides a reasonable basis for the finding and recommendation contained herein.

⁵ Ticketmaster reports are used by the event operators to record all tickets sold and complimentary tickets issued for all events listed on the tax returns.

Finding and Recommendation

Audit Finding

Beach Concerts Inc. Did Not Pay Taxes on 984 Complimentary Tickets Issued to the Media

Our review determined that Beach Concerts Inc. owes the County \$2,488 for 984 complimentary tickets (issued to radio, television stations and media) that were not reported on the tax returns from January 1, 2012 to June 30, 2014. As shown in Exhibit II below, the amount due includes penalties and interest.

Exhibit II

**Beach Concerts Inc.
Nikon at Jones Beach Theater
Taxes Owed to County
January 1, 2012 through June 30, 2014**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Total</u>
<u># of Complimentary Tickets Issued to Media</u>	<u>0</u>	<u>982</u>	<u>2</u>	<u>984</u>
<u>Calculation of Amount Due</u>				
Total Entertainment Tax Due @ \$1.50/Ticket	-	\$ 1,473	\$ 3	\$ 1,476
Penalty for Non Payment of Taxes 50% of Tax	-	736	2	738
Interest to Date (9% Compounded Daily) ¹	-	274		274
<u>Total Amount Due</u>	<u>\$ -</u>	<u>\$ 2,483</u>	<u>\$ 5</u>	<u>\$ 2,488</u>

¹ Calculated from tax return due date through January 2, 2015.

Audit Recommendation:

We recommend that Beach Concerts Inc. remit the surcharge tax of \$2,488 to the County for the unpaid complimentary tickets issued to the media.

Appendix - Beach Concerts, Inc. Response and Auditor's Follow-up



Tel. 917-421-5161

Date: Wednesday, June 17, 2015
To: JoAnn F. Greene, Director of Field Audit, Nassau County Office of the Controller
From: Dan Casale, VP Finance Northeast/North America Concerts, Live Nation, Inc.
Subject: Review Of Entertainment Surcharge Tax-Nikon at Jones Beach Theater Managed by Beach Concerts Inc. (a subsidiary of Live Nation)

Dear Ms. Greene:

The purpose of this letter is to confirm that Nikon at Jones Beach Theater Managed by Beach Concerts Inc. (a subsidiary of Live Nation) owe Nassau County Treasurer the sum of \$2,488 for 984 complimentary tickets issued that were not reported on the tax returns from January 1, 2012 to June 30, 2014. A check in the sum of \$2,488 will be remitted today June 16, 2015 to the Office of County Treasurer. If you have any concerns please feel free to reach me at the number below.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Casale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Casale
VP Finance Northeast/North America Concerts
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LIVENATION.com

Appendix - Beach Concerts, Inc. Response and Auditor's Follow-up

Auditor's Follow Up:

We concur with the corrective action taken by Beach Concerts Inc. to remit the surcharge taxes of \$2,488 to the County for the 984 complimentary tickets of value issued to the radio, television stations and media.

This payment was received at the County Treasurer's Office on June 22, 2015. We thank Beach Concerts, Inc. for their prompt attention to this matter.