


*Corp. Tax Determination,  
A-Z  
Swan-Finch Oil Corporation*

TO: Mr. Edward Rook  
FROM: Mr. Nigel Wright  
SUBJECT: Swan-Finch Oil Corporation

I have reviewed the determination prepared by the Corporation Tax Bureau and I am in agreement with it.

  
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NIGEL WRIGHT  
Hearing Officer

April 30, 1969

NW/pw





(2) That Olean Industries, Inc., hereinafter referred to as the subsidiary, was incorporated under the laws of Delaware on January 10, 1956, as a wholly-owned subsidiary of Swan-Finch Oil Corporation, hereinafter referred to as the parent;

(3) That taxes were computed on an individual basis as follows:

	<u>Parent</u> <u>Swan-Finch Oil Corporation</u>	<u>Subsidiary</u> <u>Olean Industries, Inc.</u>
1956	\$500.93	\$5,494.00
1957	479.73	8,366.27
1958	458.12	7,108.96
1959	498.96	2,608.92
1960	523.86	1,079.19
1961	504.09	958.18
1962	345.79	791.58
1963	278.67	507.33

(4) That at a conference with the Trustees on June 8, 1965 request for permission for taxation of the corporations on a combined basis in lieu of their individual taxation was denied;

(5) That during the period January 1, 1955 to January 31, 1957 the parent, which previously had been engaged in the petro chemical and gas and oil business, divested itself of all active operations and changed the character of its operations to that of a holding company;

(6) That the parent, in January 1956, purchased a grain storage business located in Olean, N.Y. and transferred the assets of such business, during January 1956, to the subsidiary;

(7) That during each of the years 1956 through 1963 practically the entire receipts of the subsidiary were from the Commodity Credit Corporation for the storage

of commodities in its granary operated at Olean, N.Y.; that the actual operations of the granary were conducted on behalf of the subsidiary by the Lawrence Warehouse Company, a non-related company to whom the subsidiary paid a commission and which was reimbursed for labor, management, taxes or other charges incurred directly in the operation of the granary; that the deductions for all such amounts were allowed as reported by the subsidiary in the computation of the entire net income as reported on the subsidiary's individual franchise tax reports;

(8) That there were no inter-company sales between the parent and the subsidiary, and that if there were any other substantial inter-company transactions, there was no specific data presented in substantiation thereof;

(9) That Section 211.4 of Article 9-A of the Tax Law reads, in part, as follows:

"In the discretion of the tax commission, any taxpayer, which owns or controls either directly or indirectly substantially all the capital stock of one or more other corporations, \* \* \* may be required or permitted to make a report on a combined basis covering any such other corporations \* \* \*."

(10) That the provisions of Article 560 of the 9-A Regulations in effect for the years 1956 through 1960 and of Section 5.28 of Ruling of State Tax Commission in effect for the years 1961 through 1963 both read, in part, as follows:

"In any case where the test of stock ownership or control \* \* \* is met, a combined report may be permitted or required by the State Tax Commission, in its discretion. In determining whether, in a case where the test of stock ownership or control is met, the tax will be computed on the basis of a combined report, the

State Tax Commission will consider various factors, including the following: (1) whether the corporations are engaged in the same or related lines of business; (2) whether any of the corporations are in substance merely departments of a unitary business conducted by the entire group; (3) whether the products of any of the corporations are sold to or used by any of the other corporations; (4) whether any of the corporations perform services for, or lend money to, or otherwise finance or assist in the operations of, any of the other corporations; (5) whether there are other substantial intercompany transactions among the constituent corporations."

Based upon the foregoing findings and all of the evidence presented, the State Tax Commission hereby

**DETERMINES:**

(A) That the request for computation of taxes on a combined basis is denied as not being warranted;

(B) That the taxes are properly computed on an individual basis, except that the individual taxes for Olean Industries, Inc., for the calendar years 1958 and 1959, are corrected to allow a net operating loss carry-back, resulting in the following resettled taxes:

1958

Original Income	\$129,253.73
Less net operating loss carry-back from 1961	<u>43,915.00</u>
Corrected Income	\$ 85,338.73
Rate	5 1/2%
Resettled Tax	\$ 4,693.63

1959

Total Capital	\$947,911.00
Rate	One Mill
Resettled Tax	\$ 947.91

(C) That the taxes for the other years are affirmed as assessed;

(D) That the aforesaid taxes do not include any taxes or charges which are not legally due.

Dated: Albany, New York

this 12th day of May 1969

THE STATE TAX COMMISSION

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER