

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

SELFO ~~SHEH~~ ^{of} d/b/a
O'NEILL'S GLENMORE LUNCHEONETTE

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)~~ or Period(s) :
11/30/66 - 8/5/68

State of New York
County of Albany

Bruce Batchelor , 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 18th day of March , 1977 , ~~she~~ served the within
Notice of Determination by (~~certified~~) mail upon Selfo Sheh d/b/a
O'Neill's Glenmore Luncheonette
(~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Selfo Sheh
d/b/a O'Neill's Glenmore Luncheonette
279 Washington Street
Hempstead, NY 11550
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

18th day of March , 1977.

Bruce Batchelor

Just Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

March 18, 1977

TELEPHONE: (518) **457-1723**

Selfo Sheh
d/b/a O'Neill's Glenmore Luncheonette
279 Washington Street
Hempstead, NY 11550

Dear Mr. Sheh:

Please take notice of the **DETERMINATION**
of the State Tax Commission enclosed herewith.

Please take further notice that pursuant to
Section(s) **1138 and 1243** of the Tax Law, any
proceeding in court to review an adverse deci-
sion must be commenced within **4 months**
from the date of this notice.

Inquiries concerning the computation of tax
due or refund allowed in accordance with this
decision or concerning any other matter relative
hereto may be addressed to the undersigned. They
will be referred to the proper party for reply.

Very truly yours,

Frank J. Puccia

Supervisor of

Small Claims Hearings

Enc.

cc: ~~Rebecca J. Puccia~~

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
SELFO SHEH d/b/a	:	
O'NEILL'S GLENMORE LUNCHEONETTE	:	DETERMINATION
for Revision of a Determination or for	:	
Refund of Sales and Use Taxes under Articles	:	
28 & 29 of the Tax Law for the Period	:	
November 30, 1966 through August 5, 1968.	:	

Applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, 279 Washington Street, Hempstead, New York 11550, filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 & 29 of the Tax Law for the period November 30, 1966 through August 5, 1968. A small claims hearing was held before Joseph A. Milack, Small Claims Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 15, 1976. Applicant appeared pro se. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Abraham Schwartz, Esq. of counsel).

ISSUES

1. Whether applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, was properly assessed for sales and use taxes due as a result of his original purchase of the business assets from Wanda Julianno.

II. Did the Sales Tax Bureau properly determine sales and use taxes due for the period November 30, 1966 through August 5, 1968?

FINDINGS OF FACT

1. Applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, purchased the business assets of Wanda Julianno on February 7, 1968. He did not file notification of sale, transfer or assignment in bulk and he did not submit payment of the sales tax due on the furniture and fixtures acquired as a result of said bulk sale.

2. Applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, operated said luncheonette during the period February 7, 1968 through August 5, 1968 and during that period failed to file New York State sales and use tax returns.

3. On August 5, 1968, applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, sold his business assets to Edward and Mary Zgutowicz.

4. On January 20, 1969, the Sales Tax Bureau issued a Notice of Determination and Demand against applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, as seller, and Edward and Mary Zgutowicz, as purchasers, for sales tax in the sum of \$503.34 plus penalty and interest of \$98.60. The aforesaid deficiency represents:

- 1) Sales tax determined to be due from Wanda Julianno for which applicant is personally liable.

- 2) Sales tax due from applicant for his failure to submit payment of the sales tax due on the purchase of furniture and fixtures from Wanda Julianno.
- 3) Sales tax determined due as result of his failure to file New York State sales and use tax returns for the period February 7, 1968 through August 5, 1968.

5. Applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, did not submit books and records and the deficiency determined to be due as a result of the failure to file New York State sales tax returns was computed by the Sales Tax Bureau upon the basis of external indices.

CONCLUSIONS OF LAW

A. That applicant, Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette, was properly assessed for sales and use taxes determined to be due in accordance with the meaning and intent of sections 1141(c) and 1138(a) of the Tax Law.

B. That the application of Selfo Sheh d/b/a O'Neill's Glenmore Luncheonette is denied and the Notice of Determination and Demand issued on January 20, 1969 is sustained.

DATED: Albany, New York
March 18, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER