



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

December 7, 1976

TELEPHONE: (518) 457-3850

REMAILED DECEMBER 14, 1976

☐
Panorama Coin Operated Car Wash
710 Panorama Trail S.
Rochester, New York

Gentlemen:

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

Please take further notice that pursuant to
Section(s) 1138 & 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

Frank J. Puccia
Supervisor of Small
Claims Hearings

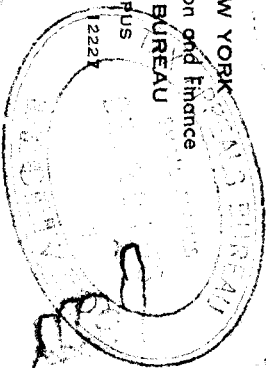
Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

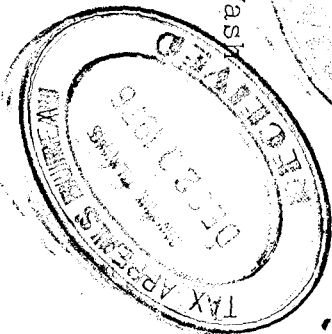
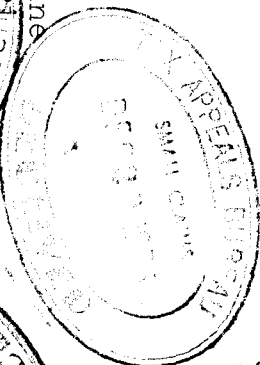
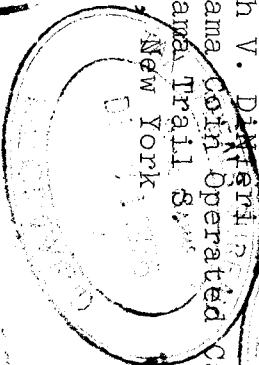
STATE OF NEW YORK
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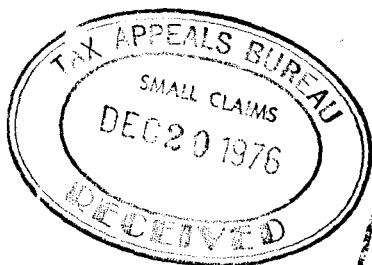
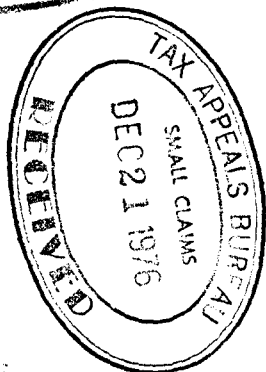
STATE CAMPUS
ALBANY, N. Y. 12221



*Return to Sender
No one here by that name*

Mr. Russell F. Giovine
Mr. Joseph V. DiMasi
c/o Panorama Coin Operated Car Wash
710 Panorama Trail S.W.
Rochester, New York





STATE TAX COMMISSION

II. Are the purchasers liable for the payment of sales tax determined to be due the State from the seller in accordance with section 1141(c) of the Tax Law?

FINDINGS OF FACT

1. Panorama Coin Operated Car Wash was not registered with the Sales Tax Bureau and did not file returns for the period August 1, 1965 through September 29, 1967.
2. On September 29, 1967, the Panorama Coin Operated Car Wash with Russell F. Giovine and Joseph V. Dinieri, as sellers, was sold to Harland E. and Madeline L. Doeberiner for \$50,000.00. The sales price of the tangible personal property was valued at \$40,000.00.
3. On May 10, 1968, the purchasers filed a Notification of Sales in Bulk notifying the Sales Tax Bureau of the September 29, 1967 bulk sale.
4. The Sales Tax Bureau issued a Notice of Determination and Demand for payment of sales and use taxes due against the sellers, Russell F. Giovine and Joseph V. Dinieri, on April 30, 1969 and against the purchasers, Harland E. and Madeline Doeberiner, on November 5, 1969. Both notifications indicated a tax due of \$6,100.00. The Sales Tax Bureau estimated the tax due for each period under Determination, based on sales tax returns filed by the purchasers, Harland E. and Madeline Doeberiner, for periods subsequent to the bulk sale.
5. An application for a revision of determination was filed by the applicants.
6. On December 12, 1969, the sellers, Russell F. Giovine and Joseph V. Dinieri, filed with the Sales Tax Bureau worksheets which indicated a net tax due of \$1,806.55, for the period August 1, 1965 through September 28, 1967. Accompanying the worksheets was a check in the amount of \$1,806.55. This payment did not include the tax due on the bulk sale or any penalty or interest.

7. The applicant, Panorama Coin Operated Car Wash, contends that the tax due, which was estimated by the Sales Tax Bureau, was incorrect for the following reasons. During the period August 1, 1965 through September 29, 1967, the Panorama Coin Operated Car Wash consisted of four washing bays which were operated by the vehicle owner at a charge of 25 cents for each 5 minutes of use. Upon the change of ownership, the charge remained the same but the time was reduced to four minutes of use. On February 1, 1968, two new automatic car wash bays were added and the charge for the use of these bays was 75 cents for a four minute wash.

8. The worksheets submitted to the Sales Tax Bureau by the applicant, Panorama Coin Operated Car Wash, on December 12, 1969, accurately reflected the tax due from the car wash operation.

CONCLUSIONS OF LAW

A. That the applicants accurately computed and remitted the tax due of \$1,806.55 on December 12, 1969 for the period August 1, 1965 through September 29, 1967. That the tax due of \$1,806.55 was not timely paid, and the applicants are liable for the penalties and interest as imposed under section 1145 of the Tax Law.

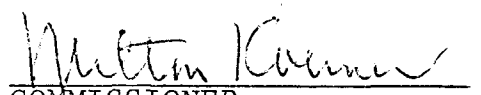
B. That the application of Panorama Coin Operated Car Wash, et.al. Russell F. Giovine and Joseph V. Dinieri (sellers) and Harland E. and Madeline Doeberiner (purchasers) is granted to the extent that the tax due from the operation of the car wash for the periods August 1, 1965 through September 29, 1967 and the bulk sale of September 29, 1967 is reduced from \$6,100.00 to \$3,806.55. Such amount includes \$1,806.55, the sum of which has been paid on December 12, 1969 and


\$2,000.00 in tax due on the sale in bulk. The amount of tax due shall be together with such penalties and interest as may be lawfully owing that the Sales Tax Bureau is hereby directed to accordingly modify the Notice of Determination and Demand for payment of sales and use taxes due issued April 30, 1969 and November 5, 1969; and, that, except as so granted, the application is in all other respects denied.

DATED: Albany, New York
December 7, 1976

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER