

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

PANORAMA COIN OPERATED CAR WASH et.al.

RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers)

HARLAND E. AND MADELINE DOEBERINER (Purchasers)

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 & 29 of the

Tax Law for the Year(s) or Period(s) :

August 1, 1965 through September 29, 1967.

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 7th day of December, 1976, she served the within

Notice of Determination by (certified) mail upon Panorama Coin Operated

Car Wash (representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows:

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

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

7th day of December, 1976

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

OF

PANORAMA COIN OPERATED CAR WASH et.al.
RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers) **AFFIDAVIT OF MAILING**
HARLAND E. AND MADELINE DOEBERINER (Purchasers)
For a Redetermination of a Deficiency or
a Revision of a Determination or a Refund
of Sales & Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the Year(s) or Period(s)
8/1/65 through 9/29/67

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 7th day of December, 1976, she served the within
Notice of Determination by (certified) mail upon Harland and Madeline
Doeberiner (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. and Mrs. Harland E. Doeberiner
88 Mildahn Road
Macedon, New York 14502
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

7th day of December, 1976.

Bruce Batchelor

Janet MacL

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of :
PANORAMA COIN OPERATED CAR WASH et.al.
RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers) AFFIDAVIT OF MAILING
HARLAND E. AND MADELINE DOEBERINER (Purchasers)
HAF For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund
of Sales & Use :
Taxes under Article(s) 28 & 29 of the :
Tax Law for the Year(s) or Period(s) :
8/1/65 through 9/29/67

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 7th day of December , 1976, she served the within
Notice of Determination by (certified) mail upon Russell Giovine and
Joseph DiNieri (~~representative of~~) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Russell F. Giovine
Mr. Joseph V. DiNieri
c/o Panorama Coin Operated Car Wash
710 Panorama Trail S.
Rochester, New York
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

7th day of December , 1976

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of :
PANORAMA COIN OPERATED CAR WASH et.al.
RUSSELL F. GIOVINE & JOSEPH V. DINIERI: (Sellers) AFFIDAVIT OF MAILING
HARLAND E. AND MADELINE DOEBERINER (Purchasers)

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund
of Sales & Use :
Taxes under Article(s) 28 & 29 of the
Tax Law for the Year(s) or Period(s) :

August 1, 1965 through September 29, 1967

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 7th day of December , 1966 , she served the within
Notice of Determination by ~~(certified)~~ mail upon E. Garrett Cleary, Esq.

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

E. Garrett Cleary, Esq.
c/o Streppa, Osgood, Cleary, Persons & Gaenzle
Suite 400, Union Trust Building
19 West Main Street
Rochester, New York 14614

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

7th day of December , 1966.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of :
PANORAMA COIN OPERATED CAR WASH et.al.
RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers) **AFFIDAVIT OF MAILING**
HARLAND E. AND MADELINE DOEBERINER (Purchasers)

For a Redetermination of a Deficiency or :

a Revision of a Determination or a Refund

of Sales & Use :

Taxes under Article(s) 28 & 29 of the

Tax Law for the Year(s) or Period(s) :

August 1, 1965 through September 29, 1967

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 7th day of December , 1976 , she served the within
Notice of Determination by (certified) mail upon Arnold F. Ciaccio, Esq
(representative of) the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Arnold F. Ciaccio, Esq.
429 Times Square Building
45 Exchange Street
Rochester, New York 14614
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

7th day of December , 1976

Bruce Batchelor

Janet Trach



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

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) **1136 & 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: Petitioner's Representative:

Taxing Bureau's Representative:

STATE TAX COMMISSION

In the Matter of the Application :
of :
PANORAMA COIN OPERATED CAR WASH et.al. :
RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers) :
HARLAND E. AND MADELINE DOEBERINER (Purchasers) : DETERMINATION
for Revision of a Determination or for :
Refund of Sales and Use Taxes under Articles :
28 and 29 of the Tax Law for the Periods :
August 1, 1965 through September 29, 1967.

A small claims hearing was held before Joseph Chyrywaty, Hearing Officer, at the offices of the State Tax Commission, One Marine Midland Plaza, Rochester, New York, on August 9, 1976, at 2:45 P.M. Applicant appeared by Arnold F. Giaccio, Esq. and E. Garrett Cleary, Esq. The Sales Tax Bureau appeared by Peter Crotty, Esq., (Richard Kaufman, Esq., of counsel).

ISSUES

- I.. Did the Sales Tax Bureau correctly determine the applicant's sales tax liability from the operation of the coin operated car wash?
- 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.

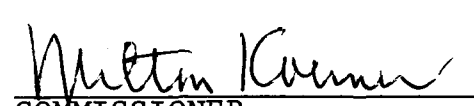
B. That the application of Panorama Coin Operated Car Wash, et.al. Russell F. Giovine and Joseph V. Dinieri (sellers) and Harland E. and Madeline Doeberiner (purchasers) is granted to the extent that the tax due from the operation of the car wash for the periods August 1, 1965 through September 29, 1967 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

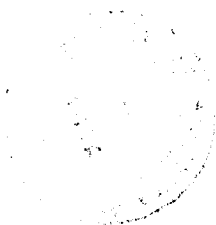
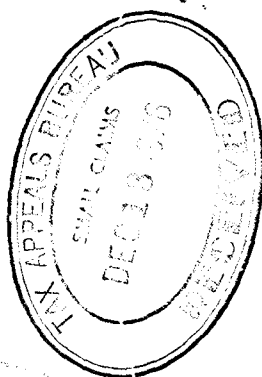

COMMISSIONER

STATE OF NEW YORK
Department of Taxation and Finance
TAX APPEALS BUREAU

STATE CAMPUS
ALBANY, N. Y. 12227

25--MPC.

Mr. Russell F. Giovine
Mr. Joseph V. DiNieri,
c/o Panorama Trail S.
Rochester, New York



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
PANORAMA COIN OPERATED CAR WASH et.al. :
RUSSELL F. GIOVINE & JOSEPH V. DINIERI (Sellers) :
HARLAND E. AND MADELINE DOEBERINER (Purchasers) :
AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

For a Redetermination of a Deficiency or
a Refund of Sales & Use :
Taxes under Article(s) 28 & 29 of the
Tax Law for the Year(s) Periods :
August 1, 1965 through September 29, 1967.

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 14th day of December, 1976, she served the within
Notice of Decision (or Determination) by (certified) mail upon Russell F. Giovine and
Joseph V. DiNieri (representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Mr. Russell F. Giovine
Mr. Joseph V. DiNieri
c/o Panorama Coin Operated Car Wash
710 Panorama Trail S.
Rochester, New York
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

14th day of December, 1976.

Janet Mack

Bruce Batchelor