

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CAMAR MEAT CORP.

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 ~~XXXXXX~~ Period ~~(X)~~ :
March 1, 1968 through May 31, 1972.

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 31st day of March , 1978, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Camar Meat Corp.

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Camar Meat Corp.
319 Brighton Beach Avenue
Brooklyn, New York 11235

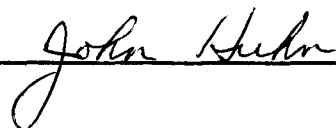
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

31st day of March , 1978.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CAMAR MEAT CORP.

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)~~ Period(s) :
March 1, 1968 through May 31, 1972.

State of New York
County of Albany

John Huhn , being duly sworn, deposes and says that
~~he~~ is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 31st day of March , 1978, ~~he~~ served the within
Notice of Determination by ~~(certified)~~ mail upon Marvin Goldberg

(representative of) the petitioner in the within proceeding,

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

as follows: Marvin Goldberg, CPA
931 Eileen Terrace
Woodmere, New York 11598

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

31st day of March , 1978







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

March 31, 1978

**Camar Meat Corp.
319 Brighton Beach Avenue
Brooklyn, New York 11235**

Gentlemen:

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

You have now exhausted your right of review at the administrative level. Pursuant to section(s) **1138 & 1243** of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within **4 months** from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

**Joseph Chyrywaty
Hearing Examiner**

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE TAX COMMISSION

for Revision of a Determination or for :
Refund of Sales and Use Taxes under :
Articles 28 and 29 of the Tax Law for :
the Period March 1, 1968 through :
May 31, 1972. :

1. On September 19, 1974 as the result of a field audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against the applicant for \$2,495.48, plus penalty and interest, for the period May 1, 1968 through May 31, 1972.

2. On May 6, 1975, the Sales Tax Bureau issued a Notice of Assessment Review, reducing the taxes due on the aforementioned notice to \$1,261.25. Said reduction was based upon a second audit of applicant's books and records.

3. During the period at issue, the applicant operated a meat market in Brooklyn, New York. In addition to meat, applicant sold soda, bread, pre-packaged cakes and ice cream.

4. The Sales Tax Bureau's auditor analyzed purchases for the months of August and November of 1970 and September of 1971, as to the taxable status of said purchases when sold. Taxable items were further broken down to soda and miscellaneous items. Pursuant to a markup test, 46.5% was applied to soda purchases and 26.1% to miscellaneous items. It was indicated that 3.69% of gross sales were taxable. Therefore, the computation schedule is as follows:

Adjusted Gross Sales	\$572,150.00
Audited taxable sales (3.69%)	21,112.34
Reported taxable sales	<u>4,869.00</u>
Difference	16,243.34
Percentage of omission	333.6%

The percentage of omission, 333.6%, was then applied to the audit period, March 1, 1968 through May 31, 1972.

Total reported taxable sales	\$ 4,869.00
Percent of omission	333.6%
Additional taxable sales	16,216.69
Additional sales taxes due	1,021.25
Additional taxes due on \$4,000.00 fixed assets	<u>240.00</u>
Total additional taxes due	\$ 1,261.25

5. The applicant contended that the \$4,000.00 picked up by the auditor as furniture and fixtures from applicant's Federal corporation tax return was actually an interest expense erroneously reported by it as furniture and fixtures. Applicant also contended that no allowance was given for pilferage, breakage or employee consumption of inventory.

6. The applicant did not present any documentary or other evidence to support its contentions.

CONCLUSIONS OF LAW

A. That the Sales Tax Bureau's determination of additional taxes due was based on such information as may be available in accordance with the meaning and intent of section 1138(a) of the Tax Law. Therefore, said determination is correct.


B. That the application of Camar Meat Corp. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 19, 1974 and reduced on May 6, 1975 by the Notice of Assessment Review is sustained.

DATED: Albany, New York
March 31, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER



New York State Department of
TAXATION and FINANCE
TAX APPEALS BUREAU

to Miss Davis,

Please file.

4/11/78

Joseph Chyrywaty

M-75 (5/76)



STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

March 31, 1978

Camar Meat Corp.
319 Brighton Beach Avenue
Brooklyn, New York 11235

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Sincerely,

Joseph Chyrywaty
Hearing Examiner

cc: Petitioner's Representative

Taxing Bureau's Representative

SMALL CLAIMS

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

STATE CAMPUS
ALBANY, N. Y. 12227

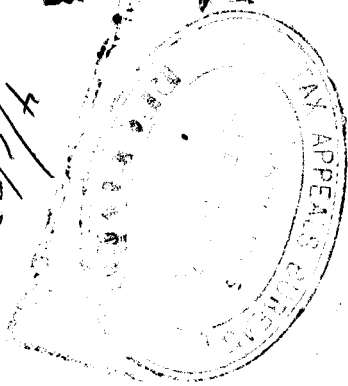


MOVED - LEFT NO ADDRESS
DO NOT RECALL
IN THIS ENVELOPE

MVW

Camar Meat Corp.
319 Brighton Beach Avenue
Brooklyn, New York 11235

4/6/78



STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application :
of :
CAMAR MEAT CORP. :
for Revision of a Determination or for : **DETERMINATION**
Refund of Sales and Use Taxes under
Articles 28 and 29 of the Tax Law for :
the Period March 1, 1968 through
May 31, 1972. :

Applicant, Camar Meat Corp., 319 Brighton Beach Avenue, Brooklyn, New York 11235, filed an application for revision of a determination or for refund of sales and use taxes under Articles 28 and 29 of the Tax Law for the period March 1, 1968 through May 31, 1972 (File No. 10061).

A small claims hearing was held before Joseph A. Milack, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 21, 1977. Applicant appeared by Marvin Goldberg, CPA. The Sales Tax Bureau appeared by Peter Crotty, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether the determination of additional taxes due, based a Sales Tax Bureau audit of applicant's books and records, was correct.

FINDINGS OF FACT

1. On September 19, 1974 as the result of a field audit, the Sales Tax Bureau issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against the applicant for \$2,495.48, plus penalty and interest, for the period May 1, 1968 through May 31, 1972.

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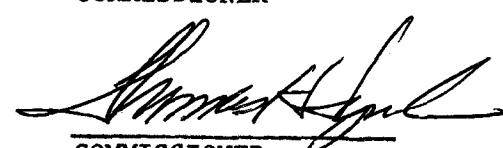
B. That the application of Camar Meat Corp. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 19, 1974 and reduced on May 6, 1975 by the Notice of Assessment Review is sustained.

DATED: Albany, New York
March 31, 1978

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER