

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

PAUL B. COBURN
SECRETARY
Telephone: (518) 457-6162

June 27, 1980

Clancy's Family Foods, Inc.
73 Main St.
Brockport, NY 14420

Gentlemen:

Please take notice of the Default Order 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 this decision must be commenced within 4 months from the date of this notice.

Inquires concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the undersigned.

Very truly yours,

PAUL B. COBURN
SECRETARY TO THE
STATE TAX COMMISSION

cc: Petitioner's Representative
Richard Calabrese
Elliot, Stern & Calabrese
1 E. Main St.
Rochester, NY 14614
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :
of :
Clancy's Family Foods, Inc. : DEFAULT ORDER
: 80-P-21
for Revision or for Refund of Sales & Use Tax :
under Article(s) 28 & 29 of the Tax Law :
for the Period 9/01/74 - 8/31/77. :

Petitioner(s) Clancy's Family Foods, Inc. filed a petition for revision or for refund of Sales & Use Tax under Article(s) 28 & 29 of the Tax Law for the Period 9/01/74 - 8/31/77. File No. 24426.

Under Section 601.5 of the State Tax Commission Rules of Practice and Procedure, a notice was served on the petitioner(s) to file a perfected petition. Notice to file the perfected petition was sent to the petitioner(s) last known address. Petitioner(s) failed to file a perfected petition. A default has been duly noted.

Now on motion of the Secretary to the State Tax Commission, it is

ORDERED that the petition of Clancy's Family Foods, Inc. be and the same is hereby denied.

DEFAULT ORDER
ADOPTED BY THE STATE TAX COMMISSION
ALBANY, NEW YORK
JUNE 27, 1980

July 15, 1980

Richard A. Calabrese, Esq.
Elliott, Stern & Calabrese
One East Main Street
Rochester, New York 14614

RE: CLANCY'S FAMILY FOODS, INC.

Dear Mr. Calabrese:

This is to acknowledge receipt of your letter of July 10, 1980.

Your motion to vacate the default order issued June 27, 1980 is granted and receipt of a perfected petition is acknowledged.

You will receive an answer to your petition from the Law Bureau within 60 days.

Sincerely,

PAUL B. COBURN
Secretary to the State Tax Commission

PBC:mac

cc: Al Nendza
Tax Appeals Bureau



1943

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/10/00 BY 60322
SP-10/10/00

RECEIVED THE SECRETARY OF

THE DEPARTMENT OF THE ARMY

WASHINGTON, D. C. 20315

(100)

RECEIVED THE SECRETARY OF THE ARMY
WASHINGTON, D. C. 20315
10/10/00

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LAW OFFICES OF
ELLIOTT, STERN AND CALABRESE

ONE EAST MAIN STREET

ROCHESTER, NEW YORK 14614

716-232-4724

RICHARD J. ELLIOTT
HERBERT N. STERN
RICHARD A. CALABRESE

SUBURBAN OFFICE
36 MAIN STREET
WEBSTER, NEW YORK 14580
716-872-5680

July 10, 1980

State of New York
State Tax Commission
Building 9, Room 200
State Campus
Albany, New York 12227

Attention: Paul B. Coburn
Secretary

Re: In the Matter of the Petition of
Clancy's Family Foods, Inc. for
Revision or for Refund of Sales &
Use Tax under Articles 28 & 29 of
the Tax Law for the Period 0/1/74
to 8/3/77

Dear Mr. Coburn:

Pursuant to our telephone conversation
of this date, this letter hereby requests that you
vacate a default order entered in the above captioned
case, a copy of which I have enclosed herewith.

Also, as requested by you, I am enclosing
herewith a copy of the perfected petition, which was
filed with your office on May 5, 1980.

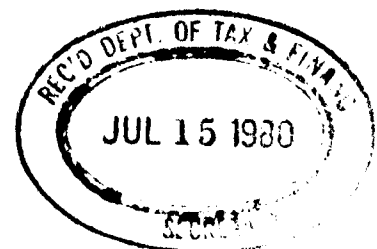
I appreciate your cooperation in this
matter.

Very truly yours,

ELLIOTT, STERN & CALABRESE


RICHARD A. CALABRESE

RAC:JMP
Enclosures



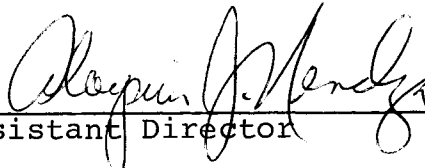
STATE TAX COMMISSION
TAX APPEALS BUREAU
MEMORANDUM

TO : Paul Coburn
FROM : Aloysius J. Nendza
SUBJECT: Clancy's Family Foods, Inc.
TAB #24426
Sales & Use Tax

The subject petitioner was defaulted on June 27, 1980, for failure to perfect their petition.

However, on May 5, 1980, a Perfected Petition was submitted to you as the Secretary to the State Tax Commission. Apparently, someone in your office forwarded these papers to the Sales Tax Bureau. We, the Tax Appeals Bureau, just received the Perfected Petitions on July 10, 1980. I am attaching the case file and the papers submitted on May 5, 1980, for your review.

I believe it is appropriate for you to notify the petitioner that the Perfected Petition has been received and the default has been vacated. Your letter should also advise the petitioner that the Law Bureau has sixty (60) days to answer starting with the date of your letter.


Assistant Director

July 11, 1980

Attachments

STATE OF NEW YORK - DEPARTMENT OF
TAXATION & FINANCE - SALES TAX

The petitioner alleges that the (11) _____ Bureau made the

following errors: (12) The audit approach used to estimate sales tax due is statistically invalid as non-accounting records were used and there were unscientific and improper projections of test results into untested periods of time.

No other action has heretofore been commenced before the State Tax Commission in respect to any of the items herein before stated, nor has any relief been previously granted in respect thereto:

WHEREFORE, the petitioner prays that (13) THE DETERMINED TAX DEFICIENCY BE DISMISSED

_____ and respectfully demands that this petition be granted.

This statement is made with the knowledge that a willfully false representation is a misdemeanor punishable under section 210.45 of the Penal Law.

MAY 5, 1980

Date

/ Richard A. Calabrese
Signature of Taxpayer or Representative*

RICHARD A. CALABRESE

*NOTE: If the petition is signed by any person other than the taxpayer, it must be accompanied by a duly executed power of a attorney unless either (1) a power of attorney has already been filed, or (2) the taxpayer is a minor whose return was filed by the signing the petition or is mentally or physically incapable of signing.

THE PERFECTED PETITION AND 3 CONFORMED COPIES ARE REQUIRED PURSUANT TO SECTION 601.5(a) OF THE RULES

(1) Insert names of petitioner or petitioners.

(2) Insert the subject matter from the following list which is applicable to your petition:

- a. For personal income tax (Article 22) or unincorporated business tax (Article 23) or both of these taxes; for the franchise tax on business corporations (Article 9-A), the tax on unrelated business income (Article 13), the gift tax (Article 26-A) the franchise tax on banking corporations (Article 32) and the franchise taxes on insurance corporations (Article 33), insert the following:

Redetermination of a Deficiency or for Refund of (specify tax or taxes involved) under Article (specify Article or Articles of the Tax Law) of the Tax Law for the Year (insert year or years involved).

- b. For sales and compensating use tax (Articles 28 and 29), for the tax on transfers of stock and other corporate certificates (Article 12) for tax on gasoline and similar motor fuel (Article 12-A), for taxes on alcoholic beverages (Article 18), for tax on cigarettes (Article 20), for highway use tax (Article 21) insert the following:

Review of a Determination of Tax Due or for Refund of (specify tax or taxes) under Article (insert appropriate Article number or numbers) of the Tax Law for (insert period or periods involved)

- c. For Tax on Mortgages (Article 11) insert the following:

Review of a Determination under Article 11 of the Tax Law, Tax on Mortgages, with reference to an instrument recorded (insert date instrument was recorded)

- d. Where the petition involves licenses or permits under an Article of the Tax Law, insert the following:

Review of a Refusal to Issue or Denial, Revocation or Suspension of a license or permit under Article (insert appropriate Article number) of the Tax Law.

(3) Insert social security number, employer identification number or a number assigned by the Department of Taxation and Finance to the taxpayer. Do not use a file number.

(4) Insert address shown on tax return and state present address, if different.

(5) Insert matter included in caption, (2) above, specifically identifying the action e.g. refund or license renewal or redetermination of a deficiency.

(6) Insert action taken by operating bureau e.g. redetermination of deficiency, denial of refund.

(7) Insert Article & tax e.g. Article 22, Personal Income Tax.

(8) Insert date contained on notice.

(9) Insert operating bureau e.g. Income Tax Bureau.

(10) Insert in the appropriate columns the indicated information. Where the controversy involves a refund, the amount claimed should be inserted in parentheses e.g. (\$375.16). Where the controversy does not involve taxes or penalties, type a brief statement of the subject across the columns for figures e.g. license as a wholesale dealer in cigarettes denied.

(11) Insert specific operating bureau.

(12) In separately numbered paragraphs, list each error of the operating bureau which the petitioner intends to prove.

Thereafter, in separately numbered paragraphs state the facts petitioner intends to prove at the hearing to establish the operating bureau's errors and to provide a basis for the relief sought by petitioner. (It is not necessary to state the evidence petitioner intends to offer in proof of the facts alleged.) Where necessary, additional pages may be added.

(13) Set forth the relief desired e.g. the notice of deficiency for personal income taxes be cancelled for tax years 1967 and 1968.

SERVICE OF THE PERFECTED PETITION AND 3 CONFORMED COPIES MUST BE MADE ON THE:

SECRETARY TO THE STATE TAX COMMISSION
P.O. BOX 5028
ALBANY, NEW YORK 12205

LAW OFFICES OF
ELLIOTT, STERN AND CALABRESE

ONE EAST MAIN STREET

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HERBERT N. STERN
RICHARD A. CALABRESE

SUBURBAN OFFICE
36 MAIN STREET
WEBSTER, NEW YORK 14580
716-872-5660

May 5, 1980

Secretary to the State Tax Commission
P.O. Box 5028
Albany, New York 12205

RE: Clancy's Family Foods, Inc.
Identifying No. 16-0978661

Gentlemen:

Enclosed herein please find an original and three (3) copies of the Petition for Clancy's Family Foods, Inc. for Redetermination of a Deficiency, together with a statement signed by Charles Clancy authorizing this firm to act on behalf of Clancy's Family Foods, Inc.

Very truly yours,

ELLIOTT, STERN & CALABRESE

RICHARD A. CALABRESE

SSG
Enclosures

cc: Steven Morel