

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Ciro Graziano :
d/b/a Foodway Market : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Period 6/1/72-2/28/76. :

State of New York
County of Albany

Jay Vredenburg, 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 6th day of August, 1980, he served the within notice of Decision by mail upon
Ciro Graziano, d/b/a Foodway Market, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

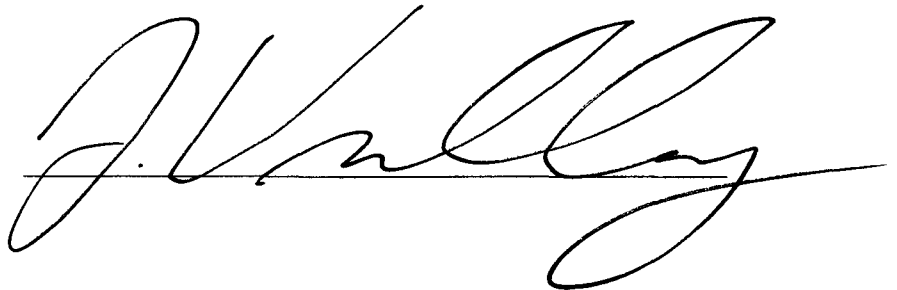
Ciro Graziano
d/b/a Foodway Market
1050 Mastic Rd.
Mastic, NY 11950

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of August, 1980.

Euborah A. Bank



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Ciro Graziano :
d/b/a Foodway Market : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Sales & Use Tax :
under Article 28 & 29 of the Tax Law :
for the Period 6/1/72-2/28/76. :

State of New York
County of Albany

Jay Vredenburg, 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 6th day of August, 1980, he served the within notice of Decision by mail upon Frank Altobello the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Mr. Frank Altobello
c/o Greg McGrath
446 Merrick Rd.
Rockville Centre, NY 11570

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
6th day of August, 1980.

Deborah A. Bank

J. Vredenburg

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

August 6, 1980

Ciro Graziano
d/b/a Foodway Market
1050 Mastic Rd.
Mastic, NY 11950

Gentlemen:

Please take notice of the Decision 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:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Frank Altobello
c/o Greg McGrath
446 Merrick Rd.
Rockville Centre, NY 11570
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
CIRO GRAZIANO	:	
d/b/a	:	DECISION
FOODWAY MARKET	:	
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 June 1, 1972	:	
through February 28, 1976.	:	

Petitioner, Ciro Graziano d/b/a Foodway Market, 1050 Mastic Road, Mastic, New York 11950, filed a petition 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 June 1, 1972 through February 28, 1976 (File No. 20643).

A small claims hearing was held before Arthur Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Center, New York, New York, on March 18, 1980 at 10:45 A.M. Petitioner appeared by Frank Altobello, PA. The Audit Division appeared by Ralph J. Vecchio, Esq. (Frank Levitt, Esq., of counsel).

ISSUE

Whether the Audit Division properly determined additional sales taxes due from petitioner for the period June 1, 1972 through February 28, 1976.

FINDINGS OF FACT

1. Petitioner, Ciro Graziano d/b/a Foodway Market, operated a grocery, delicatessen and butcher shop located at 1050 Mastic Road, Mastic, New York. Petitioner opened a second location in September 1973 at Montauk Highway, Brookhaven, New York.

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON, D. C.

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

For information of the Secretary, the following is a list of the names of the persons who have been appointed to the position of Assistant Secretary of Agriculture, and the date of their appointment.

Assistant Secretary of Agriculture, Mr. [Name]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

(Name of person)

and

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Mr. [Name], Assistant Secretary of Agriculture, was appointed on [Date]

Very respectfully,

Secretary of Agriculture

Assistant Secretary of Agriculture

Assistant Secretary of Agriculture

Assistant Secretary of Agriculture

2. On September 20, 1977 as the result of an audit, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner for the period June 1, 1972 through February 28, 1976 for taxes due of \$19,805.73, plus penalty and interest of \$11,092.26, for a total of \$30,897.99.

3. Petitioner executed consents extending the time within which to issue an assessment of sales and use tax to September 20, 1977.

4. On audit, the Audit Division found that gross sales recorded in petitioner's day book were \$207,878.22 greater than sales reported on sales tax returns filed for the periods at issue. Additionally, purchases from the day book were substantially higher than reported on Federal income tax returns. The Audit Division determined that petitioner's total purchases of merchandise for resale for the audit period were \$1,397,865.54. Purchase invoices were analyzed for the months of April and May, 1975 which disclosed the following taxable categories and the percentage of total purchases for each category: beer 6.4 percent, soda 3.7 percent, candy 2.2 percent, cigars .4 percent, cigarettes 9.8 percent, and miscellaneous 3.4 percent. A markup test was performed for each of the foregoing categories which revealed a weighted average markup of 38.7 percent. This markup was reduced to 35 percent to give consideration to items periodically sold at reduced prices. The above taxable percentages and the markup of 35 percent were applied to total purchases after allowing for pilferage and an inventory increase which resulted in taxable sales of \$427,485.14. Taxable prepared food sales of \$59,149.19 were determined based on an observation test conducted on June 23, 1977 and were combined with other taxable sales to arrive at audited taxable sales of \$486,634.33. Petitioner reported taxable sales of \$201,921.79 for the same period, leaving additional taxable sales of \$284,712.54 and tax due thereon of \$19,805.73.

On September 20, 1977, the results of the audit division

indicated a net loss of \$1,000,000, and a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

The audit division also indicated a net gain of \$1,000,000.

5. Petitioner's records did not reflect the exact amount of its taxable sales or its sales tax.

6. Petitioner contended that the business was located in a summer resort area and, as such, the Audit Division's observation test made during June was not representative of his normal sales of taxable food items.

7. The Audit Division argued that total sales on the day of its observation test were compared with sales on other Thursdays during the year and showed no substantial difference.

8. Petitioner argued that the markup on beer computed by the Audit Division was excessive in that he sold substantially more of Schmidt's beer which has a low markup.

9. The Audit Division's markup test considered all brands of beer and was weighted according to the quantity purchased.

10. Petitioner contended that the Audit Division should have performed a complete audit for the three year period rather than using test periods.

11. Petitioner offered no substantial evidence to show that the Audit Division's determination was incorrect.

CONCLUSIONS OF LAW

A. That the Audit Division properly determined additional sales taxes due from petitioner based on such information as was available, in accordance with section 1138(a) of the Tax Law.

B. That the application of Ciro Graziano d/b/a Foodway Market is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued September 20, 1977 is sustained.

DATED: Albany, New York

AUG 06 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 08-29-2007 BY 60322 JLS

W. J. 2012-11-11

10-11-68 11:00 AM

SECRET

and the need to give them a "businessman's" touch.

DATE: 11-11-64 BY: [redacted] FOR: [redacted]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 01-24-2001 BY 60322 UCBAW

1944-1945

SECRET

FOR THE PURPOSE OF THIS INVESTIGATION, THE FOLLOWING INDIVIDUALS WERE INTERVIEWED:

100-100000-100000

... and the

DATE: 10/10/1964

CONFIDENTIAL - SECURITY INFORMATION

100-443887-100

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE

SECRET

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

CONFIDENTIAL - SECURITY INFORMATION

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

State of Tennessee, Davidson County, ss. I, the undersigned, Clerk of the said County, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears from the records of said County.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 08-09-2010 BY 60324 JAL/STP

CONFIDENTIAL

Journal of Management Studies, 19(1), 67-80.

100-44328-102

15730

[Faint handwritten notes]

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

70