

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Pankos Diner Corp., T/A Empress Diner, :
Spiros & Simeon Panagatos, Ind. & as Off. : 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 8/31/73. :

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 14th day of November, 1980, he served the within notice of Determination by mail upon Pankos Diner Corp., T/A Empress Diner,, Spiros & Simeon Panagatos, Ind. & as Off., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

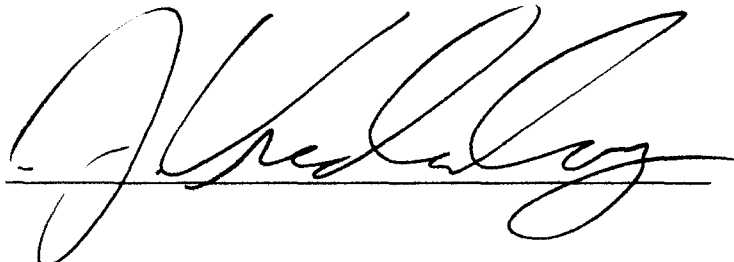
Pankos Diner Corp., T/A Empress Diner,
Spiros & Simeon Panagatos, Ind. & as Off.
2490 Hempstead Turnpike
East Meadow, NY

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
14th day of November, 1980.





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Pankos Diner Corp., T/A Empress Diner, :
Spiros & Simeon Panagatos, Ind. & as Off. : 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 8/31/73. :

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 14th day of November, 1980, he served the within notice of Determination by mail upon George Misthos 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. George Misthos
32-15 Broadway
Long Island City, NY

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
14th day of November, 1980.

Detorah Bank

J. Vredenburg

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

November 14, 1980

Pankos Diner Corp., T/A Empress Diner,
Spiros & Simeon Panagatos, Ind. & as Off.
2490 Hempstead Turnpike
East Meadow, NY

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:

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
George Misthos
32-15 Broadway
Long Island City, NY
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
PANKOS DINER CORP., T/A EMPRESS DINER	:	
and	:	
SPIROS PANAGATOS and SIMEON PANAGATOS	:	DETERMINATION
Individually and as Officers	:	
	:	
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 August 31, 1973.	:	

Applicants, Pankos Diner Corp. T/A Empress Diner, 2490 Hempstead Turnpike, East Meadow, New York, Spiros Panagatos, 2658 Beech St., East Meadow, New York, and Simeon Panagatos, 244 Andrew Avenue, East Meadow, New York, 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 ended August 31, 1973 (File No. 14810).

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on May 18, 1977 at 9:25 A.M. Applicants appeared by George A. Misthos, CPA. The Audit Division appeared by Peter Crotty, Esq. (Abraham Schwartz, Esq., of counsel).

ISSUES

I. Whether the notices of determination and demand for payment of sales and use taxes due issued to applicants on April 14, 1976 were timely.

II. Whether the purchase and erection of a diner constituted a capital improvement.

FINDINGS OF FACTS

1. On April 14, 1976, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Pankos Diner Corp. T/A Empress Diner for taxes due of \$17,325.00, plus penalty and interest of \$6,063.75, for a total due of \$23,388.75 for the period August 31, 1973.

2. On April 14, 1976, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against Spiros Panagatos and Simeon Panagatos, individually and as officers, for taxes due of \$17,325.00, plus penalty and interest of \$6,063.75, for a total due of \$23,388.75 for the period August 31, 1973.

3. The applicants timely filed an application for a hearing with respect to the aforementioned determinations.

4. The additional tax was based on the purchase by applicant Pankos Diner Corp. of a diner which was to be constructed by the seller thereof. The purchase price of the diner was \$262,500.00. It was the position of the Audit Division that the diner did not constitute a capital improvement to real property. It was further the position of the Audit Division that the tax owed on the sale was not due until August of 1973 (when the diner was erected at the site). It was applicants' position that the construction of the diner and its erection on the site constituted a capital improvement. It was further the position of applicants that the tax, if any, was due when the contract of sale was executed and when it became binding, and that the assessment was barred by the limitation of time contained in section 1147(b) of the Tax Law.

5. The contract of sale describes the diner as the following:

A custom built Mediterranean model, prefabricated diner 80 feet x 28 feet (Serial #185A & 185B), in two sections at 14 feet x 68 feet, and 28 feet x 12 feet; kitchen section (Serial #186A & 186B), in two sections at 52 feet x 19 feet, and 52 feet x 17 feet; dining room (Serial #178A & 178B), in two sections at 36 feet x 14 feet; and vestibule (Serial #188) at 9 feet, 6 inches x 18 feet; in accordance with plans and specifications attached hereto and incorporated herein;...

Figure 1 illustrates the experimental design. It shows a sequence of events: a stimulus (a word) is presented, a response (a word) is generated, and the response is evaluated. The response is then used as the stimulus for the next trial.

Journal of Management Studies, 2006; 43(7): 989–1004

Figure 1. The effect of the concentration of the inhibitor on the rate of polymerization of α -methylstyrene in the presence of SnCl_4 at 25°C .

[illegible]

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

The diner was assembled and affixed by the seller to a foundation located on property held by applicant Pankos Diner Corp. under lease until 1997. Applicant Pankos Diner Corp. was responsible for the foundation, air conditioning and electrical work. Affixation resulted in a rise in the valuation of the property. For 1977, the General Tax Levy of the Receiver of Taxes, Town of Hempstead, New York, attributed \$102,619.00 of a total of \$130,300.00, or 79 percent of the valuation of the property to the diner. The agreement made provision for the removal of the diner by the seller in the event of default by the purchaser. The lease under which Pankos Diner Corp., as tenant, held the property provided that those buildings remaining at the termination of the lease would become part of the realty.

6. Pankos Diner Corp. purchased the diner pursuant to an agreement executed on February 25, 1972. The diner was affixed to the property during the period March 12, 1973 to August 26, 1973.

7. Applicants executed a Consent Extending the Period of Limitation for Assessment for the period September 1, 1972 through August 31, 1975 to May 20, 1976.

CONCLUSIONS OF LAW

A. That section 1101(b) (5) of the Tax Law defines sale as:

Any transfer of title or possession or both...conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor...

B. That sales and use tax regulations 20 NYCRR 525.2(a) (2) provides:

The sales tax is a "transaction tax", liability for the tax occurring at the time of the transaction...The time or method of payment is immaterial, since the tax becomes due at the time of transfer of property or rendition of service.

C. That therefore the notices issued on April 14, 1976, pursuant to a consent, for taxes due on a transaction completed on August 26, 1973 are timely.

THE UNIVERSITY OF CHICAGO PRESS

10-10-68

[illegible][illegible]

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

CONFIDENTIAL

[illegible][illegible]

1. The following information is provided for the year ended 31 December 2014:

D. That the installation of the diner by the seller, as described herein, constituted a capital improvement to real property.

E. That the application of Pankos Diner Corp. T/A Express Diner and Spiros Panagatos and Simeon Panagatos is granted and the notices of determination and demand for payment of sales and use taxes due issued April 14, 1976 are cancelled.

DATED: Albany, New York

NOV 14 1980

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

United States of America, Department of the Interior, Bureau of Land Management

Washington, D.C. 20250

Dear Sir:

Reference is made to your letter of June 1, 1980, regarding the proposed

acquisition of certain land in the State of California.

Very truly yours,

Director, Bureau of Land Management

080111800

James K. [Signature]
[Signature]
James K. [Signature]

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Simeon Panagatos :
c/o Pankos Diner, Inc. : 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 8/31/73. :

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 9th day of January, 1981, he served the within notice of Determination by mail upon Simeon Panagatos, c/o Pankos Diner, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Simeon Panagatos
c/o Pankos Diner, Inc.
2490 Hempstead Turnpike
East Meadow, NY 11554
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

9th day of January, 1981.

Connie G. Haglund.

TA-26 (4-76) 25M

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

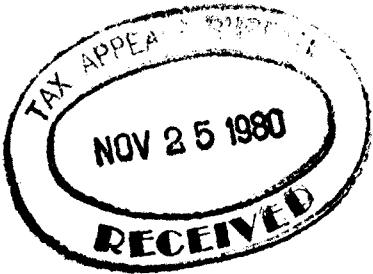
STATE CAMPUS
ALBANY, N. Y. 12227

BIA
Sent



*U.S. MAIL
Postage and Fees Paid
New York, N.Y. 10001
Permit No. 1000
This is a certified letter.
It is subject to the provisions of the
Internal Revenue Code of 1954.*

Simeon Panagatos
244 Andrew Avenue
East Meadow, New York



7-13

82

REQUEST FOR BETTER ADDRESS2nd Request

For Det. (28-29) 11-14

Requested by <i>J. Udenburg</i>	Unit Tax Appeals Bureau Room 107 - Bldg. #9 State Campus Albany, New York 12227	Date of Request DEC 15 1980
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Please find most recent address of taxpayer described below; return to person named above.

Social Security Number <i>11-2147095</i>	Date of Petition <i>76-05-08</i>
Name <i>Simeon Panagatos</i>	
Address <i>244- Andrew Ave. East Meadow, N.Y.</i>	

*7/1 Express Diner
and Pankos Diner*

Results of search by Files

<input checked="" type="checkbox"/> New address:	<i>Pankos Diner Inc. 2490 Hempstead Tpk. East Meadow, N.Y. 11554</i>
<input type="checkbox"/> Same as above, no better address	
<input type="checkbox"/> Other:	

Searched by <i>J. Carbone</i>	Section <i>B</i>	Date of Search <i>12/18/80</i>
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PERMANENT RECORDFOR INSERTION IN TAXPAYER'S FOLDER