

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition :  
of  
Shore Line Oil Co., Inc. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision :  
of a Determination or Refund of Sales & Use Tax  
under Article(s) 28 & 29 of the Tax Law for the :  
Period Ended 11/30/82. :

State of New York :

ss.:

County of Albany :

David Parchuck/Janet M. Snay, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 30th day of June, 1986, he/she served the within notice of Decision by certified mail upon Shore Line Oil Co., Inc. the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Shore Line Oil Co., Inc.  
94 First St.  
New Rochelle, NY 10801

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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  
30th day of June, 1986.

David Parchuck

Janet M. Snay  
Authorized to administer oaths  
pursuant to Tax Law section 174

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of  
Shore Line Oil Co., Inc. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or Revision :  
of a Determination or Refund of Sales & Use Tax  
under Article(s) 28 & 29 of the Tax Law for the :  
Period Ended 11/30/82.  
\_\_\_\_\_ :

State of New York :

ss.:

County of Albany :

David Parchuck/Janet M. Snay, being duly sworn, deposes and says that he/she is an employee of the State Tax Commission, that he/she is over 18 years of age, and that on the 30th day of June, 1986, he served the within notice of Decision by certified mail upon Vincent R. Rippa, the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Vincent R. Rippa  
4 Cromwell Place  
White Plains, NY 10601

and by depositing same enclosed in a postpaid properly addressed wrapper in a post office 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  
30th day of June, 1986.

David Parchuck

Janet M. Snay  
Authorized to administer oaths  
pursuant to Tax Law section 174

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

June 30, 1986

Shore Line Oil Co., Inc.  
94 First St.  
New Rochelle, NY 10801

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 of the Tax Law, a proceeding in court to review an adverse decision by the State Tax Commission may be instituted only under Article 78 of the Civil Practice Law 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  
Audit Evaluation Bureau  
Assessment Review Unit  
Building #9, State Campus  
Albany, New York 12227  
Phone # (518) 457-2086

Very truly yours,

STATE TAX COMMISSION

cc: Taxing Bureau's Representative

Petitioner's Representative:  
Vincent R. Rippa  
4 Cromwell Place  
White Plains, NY 10601

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
SHORELINE OIL CO., INC. : DECISION  
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 November 30, :  
1982.

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Petitioner, Shoreline Oil Co., Inc., 94 First Street, New Rochelle, New York 10801, 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 ended November 30, 1982 (File No. 42016).

A hearing was held before Jean Corigliano, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on January 28, 1986 at 9:15 A.M., with all briefs to be submitted by March 28, 1986. Petitioner appeared by Vincent R. Rippa, Esq. The Audit Division appeared by John P. Dugan, Esq. (Joseph W. Pinto, Esq., of counsel).

#### ISSUE

Whether the sale of a customer list as part of the bulk sale of business assets constituted the furnishing of an information service subject to tax under section 1105(c)(1) of the Tax Law.

#### FINDINGS OF FACT

1. On December 20, 1982, the Audit Division issued a Notice of Determination and Demand for Payment of Sales and Use Taxes Due against petitioner, Shoreline Oil Co., Inc., covering the period September 1, 1982 through November 30, 1982 for taxes due of \$18,562.50 plus interest. The notice stated that the taxes

were determined due from Iodice Fuel Oil, Inc. f/k/a Wham Petroleum Corp. ("Iodice") and that petitioner, as purchaser in a bulk sale transaction, was liable for such taxes in accordance with section 1141(c) of the Tax Law. A Notice of Assessment Review was issued on March 31, 1983 reducing the tax due to \$16,090.39 plus interest of \$737.08 and giving the petitioner credit for a payment of \$1,465.29 for a total amount due of \$15,362.18.

2. Petitioner was engaged in the retail fuel oil business. By an agreement dated September 15, 1982, petitioner purchased the retail fuel oil business owned by Iodice. The agreement allocated the total sale price as follows:

Customer list	\$205,000.00
Equipment	\$10,000.00
Restrictive Covenant	\$10,000.00

3. The entire tax asserted against petitioner represents the tax computed on the portion of the sales price allocated to the customer list.

4. The customer list consisted of the names and addresses of Iodice's fuel oil accounts. Other information about the customers, such as degree days, tank sizes, credit standing, was contained in separate records which were also transferred to petitioner. Petitioner compiled all of this information and added it to its own computer listing of customers.

5. Petitioner's president considered its customer lists to be its most valuable asset. Such lists were kept strictly confidential and never divulged to other companies or businesses. Only the petitioner's president and key employees had access to the list of customer names.

#### CONCLUSIONS OF LAW

A. That section 1105(c)(1) of the Tax Law imposes a tax on the receipts from every sale, except for resale, of the service of "furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or

printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons..."


B. That the sale of a customer list, such as the one involved here, has been held to be taxable under section 1105 (subd. [c], par [1]) of the Tax Law (Matter of Long Is. Reliable Corp. v. Tax Commission, 72 AD2d 826, mot. for lv. to app. den. 49 N.Y.2d 707; Matter of Skaggs-Walsh, Inc. v. State Tax Comm., \_\_\_ A.D.2d \_\_\_ [May 1, 1986]).

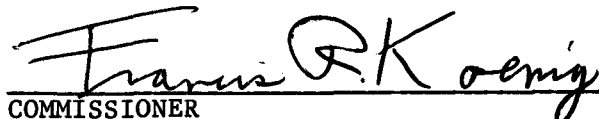
C. That the petition of Shoreline Oil Co., Inc. is denied and the Notice of Determination and Demand for Payment of Sales and Use Taxes Due issued December 20, 1982, as revised, is sustained.

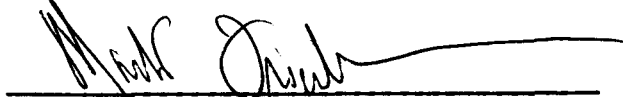
DATED: Albany, New York

STATE TAX COMMISSION

JUN 30 1986

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER