

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD GIGLIO

For ~~an Order of Determination of a Deficiency or~~  
a Revision ~~of a Deficiency or~~ or a Refund  
of Cigarette Taxes  
~~Taxes~~ under Article (s) 20 of the  
Tax Law for ~~the Year(s) or Period(s)~~  
July 2, 1973.

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Bruce Batchelor, 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 7th day of March, 1977, ~~he~~ served the within  
Notice of Determination by ~~(certified)~~ mail upon Richard Giglio

(~~representative of~~) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. Richard Giglio  
61-03 76th Street  
Middle Village, New York

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~~  
~~XXXX~~) 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

7th day of March, 1977.

Bruce Batchelor

Janet Mack

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

RICHARD GIGLIO

AFFIDAVIT OF MAILING

For ~~xxxredemption of a Delinquent Tax~~ :  
a Revision ~~xxxxtermination~~ or a Refund :  
of Cigarette Taxes :  
~~Taxes~~ under Article(s) 20 of the :  
Tax Law for ~~the Year(s) or Period(s)~~ :  
July 2, 1973

State of New York  
County of Albany

Bruce Batchelor, 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 7th day of March, 1977, ~~he~~ served the within  
Notice of Determination by (~~certified~~) mail upon Milton Scher  
(representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows:

Milton Scher, Esq.  
67-40 Myrtle Avenue  
Glendale, New York 11227

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

7th day of March, 1977.

Bruce Batchelor

Just Mack



STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE

TAX APPEALS BUREAU  
STATE CAMPUS  
ALBANY, N.Y. 12227

STATE TAX COMMISSION

ADDRESS YOUR REPLY TO

March 7, 1977

TELEPHONE: (518) **457-1723**

Mr. Richard Giglio  
61-03 76th Street  
Middle Village, New York

Dear Mr. Giglio:

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

Please take further notice that pursuant to  
Section(4) **478** of the Tax Law, any  
proceeding in court to review an adverse deci-  
sion must be commenced within **4 months**  
from the date of this notice.

Inquiries concerning the computation of tax  
due or refund allowed in accordance with this  
decision or concerning any other matter relative  
hereto may be addressed to the undersigned. They  
will be referred to the proper party for reply.

Very truly yours,

**Paul B. Coburn**  
Supervising Tax  
Hearing Officer

Enc.

cc: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Application	:	
of	:	
RICHARD GIGLIO	:	DETERMINATION
for Revision or Refund of Cigarette Taxes	:	
Under Article 20 of the Tax Law for July 2,	:	
1973.	:	

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The applicant, Richard Giglio, of 61-03 76 Street, Middle Village, New York, New York, filed an application for revision or refund of cigarette taxes under Article 20 of the Tax Law for July 2, 1973. (File No. 14624).

A formal hearing was held at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Solomon Sies, Hearing Officer on September 15, 1976 at 3:05 P.M. The applicant appeared by Eugene F. Mastropieri, Esq. (Milton Scher, Esq. of counsel). The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (James A. Scott, Esq. of counsel).

ISSUE

Whether the penalty imposed upon the applicant for unlawful possession of unstamped cigarettes was proper.

FINDINGS OF FACT

1. The applicant, Richard Giglio, was never granted a wholesale dealer's license to sell cigarettes.

2. On January 29, 1975 the Miscellaneous Tax Bureau issued a penalty assessment against the applicant for unlawful possession on July 2, 1973 of unstamped cigarettes, imposing a penalty of \$5.00 per carton on 355 cartons of unstamped cigarettes subject to penalty in the amount of \$1,780.00.

3. On July 2, 1973 at Adelphi Street, Brooklyn, New York, the applicant, Richard Giglio, did unlawfully have in his possession and under his control 366 cartons of cigarettes which were unstamped in violation of section 472 of the Tax Law, and he attempted to sell unstamped cigarettes.

4. The applicant was convicted in Criminal Court for unlawful possession of unstamped cigarettes.

CONCLUSIONS OF LAW

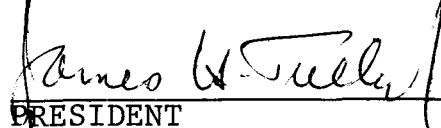
A. That on July 2, 1973 the applicant, Richard Giglio, did unlawfully have in his possession 366 cartons of unstamped cigarettes in violation of Article 20 of the Tax Law.

B. That the penalty imposed pursuant to section 481 of the Tax Law was reasonable and proper.

C. That the application for revision of the penalty be and the same is hereby denied.

DATED: Albany, New York  
March 7, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER