

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of  
LOUIS MASCOLO

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :  
a Revision of a Determination or a Refund :  
of Cigarette :  
Taxes under Article (8) 20 of the :  
Tax Law ~~For the Year(s) or Period(s)~~ :

State of New York  
County of Albany

Marsina Donnini , being duly sworn, deposes and says that  
she is an employee of the Department of Taxation and Finance, over 18 years of  
age, and that on the 30th day of June , 1977 , she served the within  
Notice of Determination by ~~(certified)~~ mail upon Louis Mascolo

~~(representative of)~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Louis Mascolo  
78 Freedom Avenue  
Staten Island, 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 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 , 1977.

Marsina Donnini

Janet 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

June 30, 1977

TELEPHONE: (518) 457-1723

Louis Mascolo  
78 Freedom Avenue  
Staten Island, New York

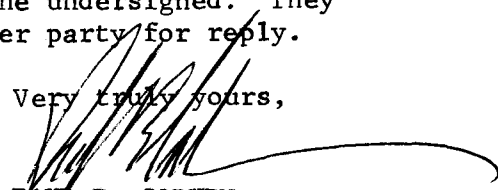
Dear Mr. Mascolo:

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

Please take further notice that pursuant to  
Section ~~(30)~~ **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.

~~XXXXX 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	:	
LOUIS MASCOLO	:	DETERMINATION
for Revision or Refund of Cigarette Taxes	:	
Under Article 20 of the Tax Law.	:	

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The applicant, Louis Mascolo, of 78 Freedom Avenue, Staten Island, New York, filed an application for revision or refund of cigarette taxes under Article 20 of the Tax Law. (File No. 13514)

A formal hearing was held at the offices of the State Tax Commission, Two World Trade Center, New York, New York, before Julius E. Braun, Hearing Officer, on February 15, 1977 at 10:45 a.m. The applicant appeared pro se. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, 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, Louis Mascolo, was never granted a wholesale dealer's license to sell cigarettes.

2. On November 6, 1973, the Miscellaneous Tax Bureau issued a penalty assessment against the applicant for unlawful possession

on September 18, 1973 of unstamped cigarettes, imposing a penalty of \$10.00 per carton on 1596 cartons of unstamped cigarettes subject to penalty in the amount of \$15,960.00.

3. On September 18, 1973, at 78 Freedom Avenue, Staten Island, New York, the applicant, Louis Mascolo, did unlawfully have in his possession and under his control 1606 cartons of cigarettes which were unstamped in violation of section 472 of the Tax Law.

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

CONCLUSIONS OF LAW

A. That on September 18, 1973, the applicant, Louis Mascolo, did unlawfully have in his possession 1606 cartons of unstamped cigarettes in violation of Article 20 of the Tax Law.

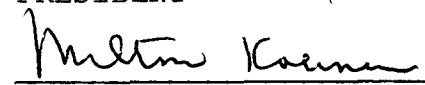
B. That the penalty imposed pursuant to section 481 of the Tax Law was reasonable and proper.

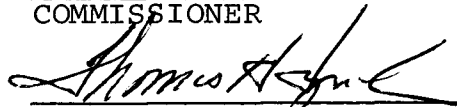
C. That the application for revision of the penalty be and the same is hereby denied.

DATED: Albany, New York  
June 30, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER