

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

DONATO NOBLE

AFFIDAVIT OF MAILING

For ~~xx Request for Extension of xx Deficiency xx~~ :
~~xx Revision of xx Deficiency xx~~ or a Refund :
of Cigarette :
Taxes under Article (x) 20 of the :
Tax Law ~~for the year (x) or years (x)~~ :

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 29th day of July, 1977, she served the within Notice of Determination by ~~(certified)~~ mail upon Donato Noble ~~(representative of)~~ the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Mr. Donato Noble
33-41 102nd Street
Corona, 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

29th day of July, 1977.

Marsina Donnini

Janet Mack

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of
DONATO NOBLE

AFFIDAVIT OF MAILING

For ~~the determination of a deficiency or~~
~~Revision of a deficiency or a Refund~~
of Cigarette
Taxes under Article (X) 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 29th day of July, 1977, she served the within
Notice of Determination by ~~(certified)~~ mail upon Joseph Figliolo

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Joseph Figliolo, Esq.
c/o Martin Stewart, Esq.
10 East 40th Street
New York, New York 10016

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

29th day of July, 1977.

Marsina Donnini

Janet Mack



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

July 29, 1977

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

Mr. Donato Noble
33-41 102nd Street
Corona, New York

Dear Mr. Noble:

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 **(b) 478** 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 the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

Paul B. Coburn
Supervising Tax
Hearing Officer

cc: Petitioner's Representative

Taxing Bureau's Representative

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
DONATO NOBLE	:	DETERMINATION
for Revision or Refund of Cigarette Taxes	:	
Under Article 20 of the Tax Law.	:	

The applicant, Donato Noble, of 33-41 102nd Street, Corona, New York, filed an application for revision or refund of cigarette taxes under Article 20 of the Tax Law. (File No. 15990)

A formal hearing was held before Julius E. Braun, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on April 19, 1977 at 2:45 P.M. The applicant appeared by Martin Stewart, Esq. (Joseph Figliolo, Esq., of counsel). 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, Donato Noble, was never granted a whole-sale dealer's license to sell cigarettes.

2. On March 9, 1976, the Miscellaneous Tax Bureau issued a penalty assessment against the applicant for unlawful possession on June 24, 1975 of unstamped cigarettes, imposing a penalty of \$2.00 per carton on 1,383 cartons of unstamped cigarettes subject to penalty in the amount of \$2,766.00.

3. On June 24, 1975, applicant, Donato Noble, did unlawfully have in his possession and under his control 1,383 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 and received a conditional discharge.

CONCLUSIONS OF LAW

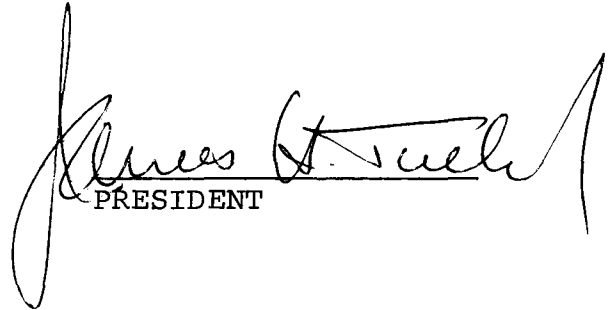
A. That on June 24, 1975, the applicant, Donato Noble, did unlawfully have in his possession 1,383 cartons of unstamped cigarettes in violation of Article 20 of the Tax Law.

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

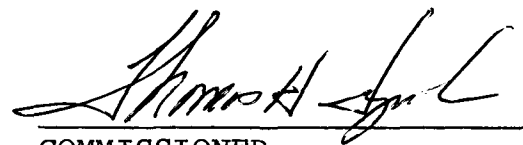
C. That the application for revision of the penalty be and the same is hereby denied.

DATED: Albany, New York
July 29, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER