

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

EUGENE R. PAUL

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency ~~xxx~~ :
~~xxx~~ ~~Revision of a Determination~~ ~~xxx~~ ~~Refund~~ :
 of in Cigarette :
 Taxes under Article (x) 20 of the :
 Tax Law. ~~for the Year(s)~~ ~~xxx~~ ~~Period(s)~~ :

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 24th day of March , 1977, ~~he~~ served the within Notice of Determination by ~~(certified)~~ mail upon Eugene R. Paul

(~~representative of~~) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows: Mr. Eugene R. Paul

Mr. Eugene R. Paul
P.O. Box 53, Red Valley Road
Clarksburgh, New Jersey

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

24th day of March , 1977.

Bruce Batchelor

First Track



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 24, 1977

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

Mr. Eugene R. Paul
P.O. Box 53, Red Valley Road
Clarksburgh, New Jersey

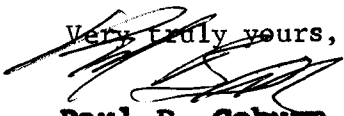
Dear Mr. Paul:

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

Please take further notice that pursuant to
Section(8) **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: ~~XXXXXXXXXXXXXXXXXXXX~~
Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
	:	
of	:	
	:	
EUGENE R. PAUL	:	DETERMINATION
	:	
for Redetermination of a Deficiency in	:	
Cigarette Tax under Article 20 of the	:	
Tax Law.	:	
	:	

Petitioner, Eugene R. Paul, of P.O. Box 53, Red Valley Road, Clarksburgh, New Jersey, has filed a petition for redetermination of a cigarette tax assessment under Article 20 of the Tax Law, assessed by the Miscellaneous Tax Bureau on May 30, 1974. (File No. 0010564).

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 20, 1976 at 10:00 A.M. Petitioner appeared pro se. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Irwin A. Levy, Esq., of counsel).

ISSUE

Whether the assessment of a penalty of \$10.00 per carton on 613 of 623 cartons of unstamped cigarettes seized when in the possession of the petitioner was proper under Article 20 of the Tax Law.

FINDINGS OF FACT

1. Petitioner, Eugene R. Paul, by his own admission, was apprehended on or about February 1, 1974 with the possession of 623 cartons of unstamped cigarettes which he had transported from North Carolina to New York City.

2. A plea of "Guilty" to a misdemeanor was entered by petitioner, Eugene R. Paul, to the criminal charge of a violation of the Tax Law, Article 20, section 481, subdivision 2. The maximum fine of \$2,000.00 was imposed, and the petitioner, Eugene R. Paul, was placed on probation for a period of three years.

3. The City of New York has delayed action on its tax claim on the same seizure against the petitioner, Eugene R. Paul, until the matter of redetermination of the cigarette tax assessment by New York State Tax Commission has been concluded.

4. Petitioner, Eugene R. Paul, has not paid the tax assessed.

CONCLUSIONS OF LAW

A. That petitioner's admitted transportation of more than five thousand cigarettes in unlawfully stamped packages, and his apprehension in possession of those cigarettes in New York City, bring him squarely within the purview of section 481 of Article 20 of the Tax Law. Section 481 Sub. 1(a) sets out the penalty.

B. That the penalty as assessed by the Miscellaneous Tax Bureau at \$10.00 per carton for 613 of the 623 cartons in petitioner's possession at the time of his apprehension on February 1, 1974 was properly determined in accordance with Article 20 of the Tax Law.

C. That the petition of Eugene R. Paul is denied in its entirety, and the assessment of \$6,130.00 made by the Miscellaneous Tax Bureau on May 30, 1974, is sustained.

DATED: Albany, New York
March 24, 1977

STATE TAX COMMISSION



PRESIDENT



COMMISSIONER



COMMISSIONER