

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

FRANCES ZAMITO

AFFIDAVIT OF MAILING

For ~~XXXXXX~~ a Revision ~~XXXXXX~~ or a Refund  
of Cigarette  
Taxes under Article ~~XX~~ 20 of the  
Tax Law ~~XXXXXX~~

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 26 day of August, 1977, she served the within  
Notice of Determination by ~~XXXXXX~~ mail upon Frances  
Zamito ~~XXXXXX~~ the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Ms. Frances Zamito  
19 Prince Lane  
Westbury, New York 11590  
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 ~~XXXXXX~~  
~~XXXXXX~~ of the petitioner herein and that the address set forth on said wrapper is the  
last known address of the ~~XXXXXX~~ petitioner.

Sworn to before me this

26th day of August, 1977.

Marsina Donnini

Janet Mack



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

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

August 26, 1977

Ms. Frances Zamito  
19 Prince Lane  
Westbury, New York 11590

Dear Ms. Zamito:

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 ~~xx~~ **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: ~~Deputy Commissioner~~

Taxing Bureau's Representative

STATE OF NEW YORK  
STATE TAX COMMISSION

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

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The applicant, Frances Zamito, 19 Prince Lane, Westbury, New York, 11590, filed an application for revision or refund of cigarette taxes under Article 20 of the Tax Law for the year 1974 (File No. 14566).

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 20, 1977 at 2:45 P.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, Frances Zamito, was never granted a whole-sale dealer's license to sell cigarettes.

2. On February 10, 1976, the Miscellaneous Tax Bureau issued a penalty assessment against the applicant for unlawful possession on December 18, 1974 of unstamped cigarettes, imposing a penalty of \$3.00 per carton on 553.2 cartons of unstamped cigarettes subject to penalty, in the amount of \$1,659.00.

3. On December 18, 1974, at 19 Prince Lane, Westbury, New York, the applicant, Frances Zamito, did unlawfully have in her possession and under her control 553.2 cartons of cigarettes which were unstamped in violation of section 472 of the Tax Law.

CONCLUSIONS OF LAW

A. That on December 18, 1974, the applicant, Frances Zamito, did unlawfully have in her possession 553.2 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 of Frances Zamito for revision of the penalty be and the same is hereby denied.

DATED: Albany, New York

August 26, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER