

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASPAR J. QUARANTA

AFFIDAVIT OF MAILING

For a ~~Representation of the~~ ~~petitioner in the within proceeding~~
~~under Article 20 of the Tax Law for the year(s) 1978~~
Hearing
under Article (x) 20 of the
Tax Law for the year(s) 1978

State of New York
County of Albany

John Huhn, 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 5th day of April, 1978, he served the within
Notice of Determination by (certified) mail upon Gaspar J. Quaranta

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Mr. Gaspar J. Quaranta
22 Tarkington Road
Holbrook, New York 11741

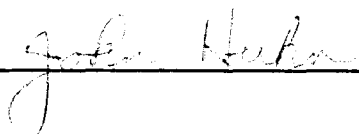
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

5th day of April, 1978





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

GASPAR J. QUARANTA

AFFIDAVIT OF MAILING

For a ~~Redetermination of a Deficiency~~
~~XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX~~
Hearing
under Article (s) 20 of the
Tax Law ~~For the Year (s) XXXX Period(s) XXXX~~

State of New York
County of Albany

John Huhn, 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 5th day of April, 1978, he served the within
Notice of Determination by (~~certified~~) mail upon Harold Sussman

(representative of) the petitioner in the within proceeding,

by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed

as follows: Harold Sussman, Esq.
200 Garden City Plaza
Garden City, New York 11530

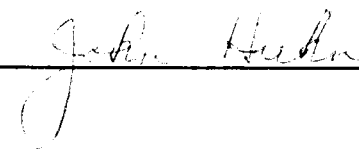
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Postal Service within the State of New York.

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

5th day of April, 1978.







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

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

April 5, 1978

Mr. Gaspar J. Quaranta
22 Tarkington Road
Holbrook, New York 11741

Dear Mr. Quaranta:

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(2) **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,

Aloysius J. Nendza
Assistant Director

cc: Petitioner's Representative
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
GASPAR J. QUARANTA	:	DETERMINATION
for a Hearing under Article 20 of the	:	
Tax Law.	:	

Applicant, Gaspar J. Quaranta, 22 Tarkington Road, Holbrook, New York 11741, filed an application for a hearing under Article 20 of the Tax Law (File No 16411).

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 December 8, 1976 at 11:15 A.M. and on August 24, 1977 at 9:15 A.M. Applicant appeared by Harold Sussman, Esq. The Miscellaneous Tax Bureau appeared by Peter Crotty, Esq. (Irwin J. Levy, Esq., and Lawrence Stevens, Esq., of counsel).

ISSUE

Whether tax and penalties assessed against applicant Gaspar J. Quaranta were proper.

FINDINGS OF FACT

1. On June 9, 1971, the Miscellaneous Tax Bureau issued a Notice of Determination of Tax Due under Cigarette Tax Law against Francis Guido and/or Barbara Aaron and/or Gaspar J. Quaranta for 9,824 cartons of untaxed cigarettes in their possession prior to June 17, 1969. Total tax due amounted to \$13,262.40.

2. On the night of June 17, 1969, applicant Gaspar J. Quaranta and two other individuals were issued summons in lieu of arrest by Investigators Mullens, Murphy and Lewis of the New York State Tax Commission, on a charge of possession of untaxed cigarettes. On July 2, 1969, Gaspar J. Quaranta was arraigned on a charge relating to sections 481 and 482 of the Tax Law. On April 5, 1971 he pleaded guilty to a violation of section 240.35(6) of the Penal Law (Loitering) and paid a fine of \$250.00.

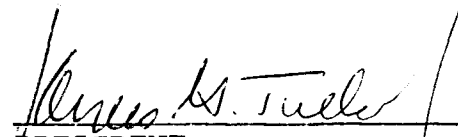
3. On March 17, 1970 and February 24, 1972, assessments were made against applicant, Gaspar J. Quaranta as the result of seizures of unstamped cigarettes. These assessments were subsequently cancelled when a co-defendant pleaded guilty in criminal court to possession of untaxed cigarettes.

CONCLUSION OF LAW

A. That the application of Gaspar J. Quaranta is granted and the Notice of Determination of Tax Due under Cigarette Tax Law issued against him on June 9, 1971 is cancelled. There is no proof that Gaspar J. Quaranta was in possession of untaxed cigarettes.

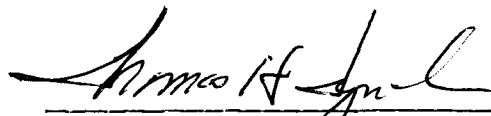
DATED: Albany, New York
April 5, 1978

STATE TAX COMMISSION


PRESIDENT

Commissioner Koerner dissents.

COMMISSIONER


COMMISSIONER