

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :

of

Anthony Mazurkiewicz :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Cigarette Tax :

under Article 20 of the Tax Law

for the Year 1974. :

State of New York

County of Albany

Jay Vredenburg, 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 6th day of June, 1980, he served the within notice of Decision by mail upon Anthony Mazurkiewicz, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Anthony Mazurkiewicz

58-45 82nd St.

Elmhurst, NY

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 petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this

6th day of June, 1980.

Joanne Knapp

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition  
of

Anthony Mazurkiewicz

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of  
Cigarette Tax :  
under Article 20 of the Tax Law  
for the Year 1974. :

State of New York  
County of Albany

Jay Vredenburg, 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 6th day of June, 1980, he served the within notice of Decision by mail upon the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Sirs  
Siegel & Graber  
100 Church St.  
New York, NY 10007

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  
6th day of June, 1980.

Joanne Knapp

J. Vredenburg

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

June 6, 1980

Anthony Mazurkiewicz  
58-45 82nd St.  
Elmhurst, NY

Dear Mr. Mazurkiewicz:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 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:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative  
Siegel & Graber  
100 Church St.  
New York, NY 10007  
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Application :  
of :  
ANTHONY MAZURKIEWICZ : DECISION  
for a Hearing to Review a Determination under :  
Article 20 of the Tax Law for the Year 1974. :  
:

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Applicant, Anthony Mazurkiewicz, 209 South 14th Street, Lindenhurst, New York, filed an application for a hearing to review a determination under Article 20 of the Tax Law for the year 1974 (File No. 17566).

A formal hearing was held before Harry Issler, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on November 17, 1977 at 9:15 A.M. Applicant appeared by Jeffrey Bettan. The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

I. Whether an application for a hearing was made within the statutory ninety days from the date of assessment, i.e., August 5, 1974.

II. Whether applicant is liable for a penalty of \$137,260.00.

FINDINGS OF FACT

1. On August 5, 1974, the Miscellaneous Tax Bureau sent applicant a Notice of Determination of Tax Due Under the Cigarette Tax Law (Article 20, Section 481-b), showing an amount due of \$137,260.00. The amount due was based on a penalty of \$20.00 per carton applied against 6,863 cartons out of 6,873 cartons of cigarettes siezed on February 10, 1974.

2. Applicant, by his then legal representatives, Siegel & Graber, Esqs., responded by letter dated September 20, 1976 to the Department of Taxation and Finance, requesting a hearing on the alleged tax liability.

CONCLUSIONS OF LAW

A. That no application for a hearing was made within the statutory ninety days from the date of the aforementioned Notice of Determination.

B. That there has been no waiver by the State of the requirements specified in Conclusion of Law "A," above.

C. That the application of Anthony Mazurkiewicz is accordingly denied on the ground of untimeliness.

DATED: Albany, New York

JUN 6 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER