

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LOUIS SISTO GOWDIE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article ~~(x)~~ 22 of the :
Tax Law for the Year ~~(xxxxxx Period(x)~~ 1972.:

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 21st day of June, 19 77, she served the within
Notice of Decision by (certified) mail upon Louis Sisto Gowdie

~~(representative of)~~ the petitioner in the within proceeding,
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed
as follows:

Mr. Louis Sisto Gowdie
429 East Main Street
Amsterdam, New York 12010

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

21st day of June, 1977.

Janet Mack

Marsina Donnini

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

LOUIS SISTO GOWDIE

AFFIDAVIT OF MAILING

For a Redetermination of a Deficiency or :
a Revision of a Determination or a Refund :
of Personal Income :
Taxes under Article (x) 22 of the :
Tax Law for the Year ~~(1971)~~ 1972.:
~~(1971)~~

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 21st day of June, 1977, she served the within
Notice of Decision by (certified) mail upon Richard A. Insogna

(representative of) the petitioner in the within proceeding,

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

Richard A. Insogna, Esq.
76 1/2 East Main Street
Amsterdam, New York 12010

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

21st day of June, 1977.

Marsina Donnini

Janet Mack



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N.Y. 12227

ADDRESS YOUR REPLY TO

June 21, 1977

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

Mr. Louis Sisto Gowdie
429 East Main Street
Amsterdam, New York 12010

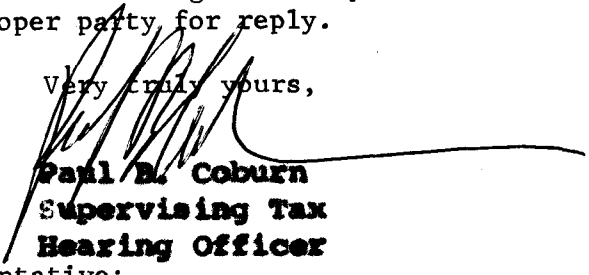
Dear Mr. Gowdie:

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

Please take further notice that pursuant to
Section(§) **690** 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: Petitioner's Representative:

Taxing Bureau's Representative:

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
LOUIS SISTO GOWDIE	:	DECISION
for Redetermination of a Deficiency or	:	
for Refund of Personal Income Tax under	:	
Article 22 of the Tax Law for the Year	:	
1972.	:	

Petitioner, Louis Sisto Gowdie, 429 East Main Street, Amsterdam, New York, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law for the year 1972. (File No. 01468)

A formal hearing was held before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Building #9, State Campus, Albany, New York, on June 2, 1976 at 9:15 A.M. The petitioner appeared by Richard A. Insogna, Esq. The Income Tax Bureau appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUES

I. Whether the money found in the cash register of the petitioner, Louis Sisto Gowdie's newsstand, in 1972 constituted gambling earnings.

II. Whether the Income Tax Bureau correctly projected gambling earnings in 1972.

FINDINGS OF FACT

1. Petitioner, Louis Sisto Gowdie, filed a New York State income tax resident return for the year 1972. He listed \$3,871.00 as his adjusted income from his Federal income tax return for that year and \$2,221.00 as his New York taxable income. His Federal income tax return listed \$3,507.00 as profits from his business, Burlington News and Cigar Store.

2. On October 30, 1972, the Income Tax Bureau issued a Jeopardy Assessment against the petitioner in the sum of \$1,968.43, based upon available information, under section 694(1) of the Tax Law, thus terminating the petitioner's tax year as of October 3, 1972. The deficiency was based on a projection of \$24,003.00 of (projected) income for the year.

3. The Income Tax Bureau offered no basis for the \$24,003.00 projected figure of the petitioner's income in 1972.

4. On October 2, 1972 the Burlington News and Cigar Store was raided by the New York State Police. The owner/operator of this store, the petitioner, Louis Sisto Gowdie, was arrested and charged with possession of gambling records. His cash register containing \$1,313.16 was seized. The petitioner pled guilty to a misdemeanor charge of possession of gambling records and on December 7, 1972, the aforementioned cash register and money were returned to the petitioner by an order of the Police Court of the City of Amsterdam, New York. He had been convicted of gambling law violations on prior occasions.

5. The petitioner contended but offered no documentary proof that the money was from rents and the day's receipts, rather than gambling winnings, such as: a copy of the mortgage to two properties owned by the petitioner, one in partnership and the other solely; or checks showing mortgage or property maintenance payments; or a checking account showing substantial deposits which could be inferred as attributable to rental payments.

6. There was no substantial evidence offered that the rents on the two aforementioned properties, the partnership property at 134 Division Street, Amsterdam, New York and the solely-owned property at 45 Elizabeth Street, Amsterdam, New York, were actually collected on October 1 and 2 of 1972.

7. The petitioner maintained no personal checking account in 1972.

8. The petitioner was engaged in an illegal gambling business in 1972.

CONCLUSIONS OF LAW

A. That petitioner, Louis Sisto Gowdie was engaged in an illegal gambling business during the year 1972 and that the sum of \$1,313.16 seized in the gambling raid by the State Police constituted unreported income from unexplained sources and therefore was subject to New York State personal income tax.

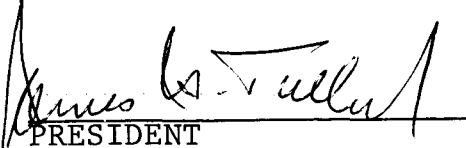
B. That the projection of unreported income of \$24,003.00 as assessed by the Income Tax Bureau is an arbitrary and capricious figure. There is no evidence in the record to indicate

how the figure was arrived at. There is no showing that a proper net worth audit was conducted.

C. That the petition of Louis Sisto Gowdie is granted to the extent that New York taxable income for the year 1972 is reduced from \$24,003.00 to \$3,534.16, that the Income Tax Bureau is hereby directed to accordingly modify the Notice of Deficiency issued October 30, 1972 and that except as so granted, the petition is in all other respects denied.

DATED: Albany, New York
June 21, 1977

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER