

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

THORVALD R. and JEAN L. LARSEN

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 (s) or Period (s) 1971. :

AFFIDAVIT OF MAILING

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 8th day of April , 19 77, he served the within  
Notice of Decision by (certified) mail upon Thorvald R. & Jean L.  
Larsen (representative of) the petitioner in the within proceeding,  
by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed  
as follows: Mr. & Mrs. Thorvald R. Larsen  
48 Hawthorne Road  
Short Hills, New Jersey 07078

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

8th day of April , 1977.

Bruce Batchelor

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

April 8, 1977

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

Mr. & Mrs. Thorvald R. Larsen  
48 Hawthorne Road  
Short Hills, New Jersey 07078

Dear Mr. & Mrs. Larsen:

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

Please take further notice that pursuant to  
Section(**x**) **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,

**Frank J. Puccia**  
**Supervisor of Small**  
**Claims Hearings**

Enc.

cc: ~~XXXXXXXXXXXXXXXXXXXX~~

Taxing Bureau's Representative:

## STATE TAX COMMISSION

A small claims hearing was held before William Valcarcel, Small Claims Hearing Officer, on July 13, 1976 at 1:15 p.m. at the offices of the State Tax Commission, Two World Trade Center, New York, New York. The petitioner appeared pro se and for his wife, petitioner, Jean L. Larsen. The Income Tax Bureau appeared by Peter Crotty, Esq., (Frank Levitt, Esq. of counsel).

## ISSUE

Did a stock purchasing agreement entered into during the year 1970 result in earned income to petitioners, Thorvald R. and Jean L. Larsen, in the year 1971?

FINDINGS OF FACT

1. The petitioners, Thorvald R. and Jean L. Larsen, filed a New York State income tax nonresident return for the year 1971, whereby he did not include as an item of income "other compensation" of \$9,297.60. Upon audit, the Income Tax Bureau issued a deficiency, holding the \$9,297.60 taxable to New York on the same allocable basis as his salary.

2. The "other compensation" of \$9,297.60, as it appeared on his wage statement, (issued and given to the petitioner by his employer), represents the difference between fair market value and petitioner's cost of stock purchased from his employer.

3. On July 30, 1970, the petitioner, Thorvald R. Larsen, entered into a common stock purchasing agreement with his employer, Cheseborough-Pond's Inc., whereby he agreed to purchase 260 shares of their stock at \$19.24 per share, or a total purchase price of \$5,002.40. Although the total purchase price was required to be paid in monthly installments, he retained the right to submit additional payments, or full payment, at any time.

4. The purchase agreement stated that stock dividends were to be paid on shares which were fully paid for and for which certificates were issued. In addition, it stated that the corporation would pay to the petitioner, an amount equal to the dividends paid by the corporation on a number of shares equal to the number of shares not fully paid for, or for which certificates were not issued.

5. During 1971, substantial risk of forfeiture was lifted by the terms of the purchasing agreement.

CONCLUSIONS OF LAW

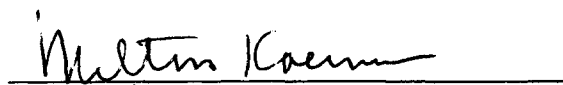
A. That the amount of \$9,297.60 at issue is fully taxable as ordinary income during 1971 within the meaning and intent of section 83(a) of the Internal Revenue Code, and within the meaning and intent of section 612 of Article 22 of the Tax Law.

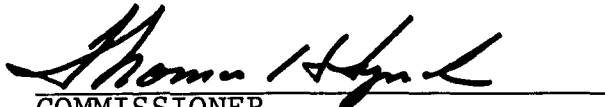
B. That the petition of Thorvald R. and Jean L. Larsen is denied and the Notice of Deficiency issued May 19, 1975 is sustained.

DATED: Albany, New York  
April 8, 1977

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER