

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CROWN CORK & SEAL COMPANY, INC.

For a Redetermination of a Deficiency or
a Refund of Stock Transfer
Taxes under Article(s) 12 of the
Tax Law ~~for the year(s)~~

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 17th day of January , 1973 , she served the within
Notice of Decision (or Determination) by (certified) mail upon Crown Cork & Seal
Company, Inc. (representative of) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Crown Cork & Seal Company, Inc.

9300 Ashton Road
Philadelphia, Pennsylvania 19136

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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

17th day of January , 1973

Lynn Wilson

Martha Funaro

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

CROWN CORK & SEAL COMPANY, INC.

For a Redetermination of a Deficiency or
a Refund of Stock Transfer
Taxes under Article(s) 12 of the
Tax Law ~~for the Year(s)~~

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (CERTIFIED) MAIL

State of New York
County of Albany

Martha Funaro , 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 17th day of January , 1973, she served the within
Notice of Decision (or Determination) by (certified) mail upon Bernard Cedarbaum,
Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid

wrapper addressed as follows: Bernard Cedarbaum, Esq.
Carter, Ledyard & Milburn
2 Wall Street

New York, New York 10005
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 Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) 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

17th day of January , 1973

Lynn Wilson

Martha Funaro



STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

STATE TAX COMMISSION

NORMAN F. GALLMAN, PRESIDENT
A. BRUCE MANLEY
MILTON KOERNER

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518
457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

ADDRESS YOUR REPLY TO

Dated: Albany, New York

January 17, 1973

Crown Cork & Seal Company, Inc.
9300 Ashton Road
Philadelphia, Pennsylvania 19136

Gentlemen:

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

Please take further notice that pursuant to **section 279-a**
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **90 Days** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright
HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application :
of :
CROWN CORK & SEAL COMPANY, INC. : DECISION
for a Hearing to Review a Determination :
of Stock Transfer Taxes due pursuant to :
Article 12 of the Tax Law. :

Crown Cork & Seal Company, Inc. filed an application under section 279-a of the Tax Law for a hearing to review a determination dated July 13, 1964 in the amount of \$48,403.80 of stock transfer taxes due under Article 12 of the Tax Law. In lieu of a hearing, the application was submitted to the Commission on the file of the Miscellaneous Tax Bureau and a stipulation of facts contained therein.

The applicants were represented by Bernard Cedarbaum, Esq., of Carter Ledyard & Milburn. The aforementioned file and stipulation have been duly examined and considered.

ISSUE

The issue in this case is whether a taxable transfer of portfolio stock took place in New York when a Delaware corporation merged into a New York corporation under circumstances where the portfolio stock was held by a custodian at the time of the filing of the required legal papers for the merger and the filing of said legal papers took place allegedly first in New York and later in Delaware.

FINDINGS OF FACT

1. Crown Cork & Seal Company, Inc. was incorporated on December 19, 1927 in the State of New York and has its principle place of business at Philadelphia, Pennsylvania. It manufacturers

tin and aluminum cans for food and beverages, crowns and closures for the brewing and soft drink industries and high speed filling equipment. It owns 50.52% of the outstanding stock of Crown Cork International Corporation.

2. Crown Cork International Corporation was incorporated on September 6, 1928 in the State of Delaware. It is a holding company organized originally by Crown Cork & Seal Company, Inc. to develop companies outside of the United States engaged in the manufacturer of crowns. In 1961 it held as portfolio stock shares in some 24 different subsidiaries. All of these subsidiaries were incorporated under the law of foreign nations including nations in Europe, South America and Africa. It owns at least majority interests and usually the entire interest in its subsidiaries. The minority interests in these subsidiaries are traded on local stock exchanges outside of the United States. None of these subsidiaries maintained or kept in the State of New York any books or records relating to the registration or transfer of its stock.

3. The shares owned by Crown Cork International Corporation in some of these subsidiaries were registered in the name of itself, but other shares were bearer shares or qualifying shares registered in the names of its officers or directors. The certificates for these subsidiaries were never located or delivered in the State of New York. They were kept in a safe deposit box at the Commercial Trust Company, Jersey City, New Jersey, until May 31, 1961, when they were transferred to a safe deposit box at the Bank of Delaware, Wilmington, Delaware.

4. On August 14, 1961, a joint agreement of merger, dated as of September 21, 1961 was approved by the Boards of Directors of Crown Cork & Seal Company, Inc. and Crown Cork International Corporation by their respective Boards of Directors whereby they agreed to merge into a single corporation, wherein the name, entity, and separate existence of Crown Cork International Corporation should terminate,

except insofar as they may be continued by statute, and the name, entity, existence and all the property, rights, powers, franchises and immunities of Crown Cork & Seal Company, Inc. should continue unimpaired. The effective date of the merger was stated to be October 31, 1961 or such later date on which all filings and recordations should have been accomplished. A certificate of consolidation was annexed to the agreement of merger. The shareholders of each corporation approved said agreement on October 24, 1961. The president of each corporation executed the agreement of merger and signed the certificate of consolidation on the same date.

5. On October 31, 1961, Crown Cork International Coporation entered into a custody agreement with the Bank of Delaware at Wilmington, Delaware and concurrently delivered to said bank all of the certificates of stock held as portifolio stock the transfer of which is in issue herein, together with instruments of assignment and duly executed stock powers concerning all of said stock. The execution of this agreement and delivery of said certificates were completed at some time before 4:00 p.m. on October 31, 1961.

6. The certificate of consolidation (together with an annexed consent of the New York State Department of Taxation and Finance) was filed at the Albany, New York office of the Department of State, State of New York on October 31, 1961 and has been certified to by the Secretary of State. Delivery of said certificate was made at 4:30 p.m. on that day.

7. The joint agreement of merger was filed in the office of the Secretary of State, State of Delaware on October 31, 1961 at 4:45 p.m. and both the date and time of said filing has been certified by the said Secretary of State. This filing was made only after the delivery of papers for filing in the State of New York

had been completed according to prior plan and after a telephone communication that the delivery in New York had been completed.

DECISION

A taxable transfer of the portfolio stock in question took place in the State of New York and the determination under review is correct in all particulars.

DATED: Albany, New York
January 17, 1973

STATE TAX COMMISSION

COMMISSIONER

Bruce Manley

COMMISSIONER

Milton Korman

COMMISSIONER