

*Chaise Alaine*  
*Plus Income*  
(22)

STATE OF NEW YORK  
STATE TAX COMMISSION

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In the Matter of the Petition  
of  
Alaine Chaise  
For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1961

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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 21st day of January , 1971 , she served the within Notice of Decision (or Determination) by (certified) mail upon Alaine Chaise (representative of) the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows: Alaine Chaise  
211-35 23 Avenue  
Bayside, New York 11360  
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  
21st day of January , 1971  
Linda Wilson

*Martha Funaro*

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition

of

Alaine Chaise

For a Redetermination of a Deficiency or  
a Refund of Personal Income  
Taxes under Article(s) 22 of the  
Tax Law for the (Year(s) 1961

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Sanders Chaise  
211-35 23 Avenue  
Bayside, New York 11360

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

21st day of January , 1971

Linda Wilson

Martha Funaro

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of the Petition :  
of :  
ALAINE CHAISE : DECISION  
for a Redetermination of a Deficiency :  
or for Refund of Personal Income Taxes :  
under Article 22 of the Tax Law for the :  
year 1961 :

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Alaine Chaise has filed a petition for a redetermination of a deficiency or for refund of personal income taxes under Article 22 of the Tax Law for the year 1961 (file #1-8465261). A formal hearing was held before Francis X. Boylan, hearing officer, at the offices of the State Tax Commission, 80 Centre Street, New York, New York, on June 12, 1969. The petitioner appeared by Sanders A. Chaise, Esq. The Income Tax Bureau appeared by Edward H. Best, Esq. (Alexander Weiss, Esq. of counsel).

FINDINGS OF FACT

1. On July 3, 1961, petitioner purchased 5000 shares of the common stock of Gem Electronic Distributors, Inc. from Marcia Fine at a price of \$2.00 per share. Marcia Fine was a director and major stockholder of Gem. Petitioner's husband was the accountant for Gem. Petitioner's husband and petitioner were close friends of Marcia Fine and her husband, who was president, treasurer, director and a major stockholder of Gem. At the time of purchase, petitioner agreed that she would not offer the Gem shares for sale for a period of two years. There was no established market for the stock at the time of purchase.

Gem was engaged in the distribution of electronic parts and equipment. Net sales increased from \$2,291,722.86 in 1957 to \$3,456,313.20 in 1961. Net income after taxes increased from .04 a share in 1957 to .43 in 1961. The number of sales outlets increased from 5 in 1957 to 12 in 1961. The book value of a share, which excluded good will, as of June 30, 1961, was \$1.49.

On or about June 24, 1965, petitioner entered into a closing agreement with the Internal Revenue Service wherein she consented to a determination that the fair market value of the Gem stock was \$7500.00 in excess of the price paid for it by petitioner.

On September 24, 1965, petitioner and her husband filed a Notice of Change in Taxable Income by United States Treasury Department for the tax year 1961 (IT-115). The Notice indicated a net increase in taxable income in 1961 for federal tax purposes of \$8554.41. The items increasing federal taxable income consisted of \$805.25 for disallowances of auto expenses, \$249.16 for corrected medical expense deductions, and \$7500 for excess value of bargain purchase of Gem stock. In computing the adjusted New York State income tax, the petitioner excluded from additional taxable income the \$7500 bargain purchase of stock and \$225.00 for increased medical expense deduction allowable based upon the exclusion of the \$7500.00. Petitioner reported \$829.41 as additional New York State taxable income for the year 1961 and paid an additional tax of \$90.40.

On January 30, 1967, the Income Tax Bureau issued a notice of deficiency to petitioner (file #1-8465261) in which it determined that the additional income property taxable for New York State tax purposes amounted to \$8554.41 as per the federal audit rather than \$829.41 as reported by petitioner on form IT-115.

CONCLUSIONS OF LAW

A. That the fair market value as of July 3, 1961, of the 5000 shares of the common stock of Gem Electronic Distributors, Inc. purchased by petitioner was \$7500.00 in excess of the purchase price paid by her.

B. That the petition of Alaine Chaise for redetermination of the deficiency is denied and the notice of deficiency issued January 30, 1967, against petitioner is sustained.

DATED: Albany, New York  
*January 21, 1971*

STATE TAX COMMISSION

*Norman Galloran*  
PRESIDENT

*Bruce McAuley*  
COMMISSIONER

*Walter Koerner*  
COMMISSIONER