

STATE OF NEW YORK

Cashin, Inc.

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFERES - - CORPORATION TAX BUREAU

In the Matter of the Applications of :

CASHIN, INC. :

for revision or refund of franchise :
taxes under Article 9A of the Tax :
Law for the calendar years 1959, 1960, :
1961, and the cessation period January :
1, 1962 to June 29, 1962. :

SUPPLEMENTAL REPORT

Hearing Case No. 2411

The taxes were audited and stated as follows:

<u>Year</u>	<u>Net Income Allocated 100% to N.Y.</u>	<u>Tax at 5 1/2%</u>	<u>Date of Billing</u>
1959	\$240,437.09	\$13,224.04	May 5, 1961
1960	299,102.73	16,450.65	November 1, 1961
1961	341,165.97	18,764.13	June 28, 1963
1962	148,235.73	8,152.97	June 28, 1963

Timely applications were filed on August 27, 1962 and July 31, 1963.

The only question involved is whether the taxpayer had a regular place of business outside New York so as to be entitled to a business allocation.

A formal hearing was held in Albany on October 2, 1962 before William F. Sullivan, Conferee, with the taxpayer being represented by Vaughan Read, controller, and James A. Cuddihy, Esq., as counsel.

The facts are as follows:

The taxpayer is engaged in the leasing of its patented automatic "weighing while conveying machines" to meat packers and chain store operators located throughout the United States and Canada.

The taxpayer, for the years under review, purchased two separate units, a weigh-head scale and an electronic unit from suppliers located in North Carolina, New Jersey and Illinois. The suppliers would ship the units to Allbright-Nell Co. in Chicago, Illinois. Under an agreement with the taxpayer, Allbright-Nell Company would assemble the completed unit and, upon instructions from the taxpayer, would ship the completed unit to the taxpayer's lessees.

It was the taxpayer's practice to estimate the number of machines it would lease to new customers during a year and purchase the separate units at an economical price.

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As of December 31, 1959, 1960, 1961 and for the short period in 1962, the inventory of taxpayer's owned parts at Albright-Well Company in Chicago amounted to \$29,075.26, \$49,256.87, \$55,493.00 and \$59,068.00, respectively.

The number of taxpayer's machines assembled in the years 1959, 1960, 1961 and 1962 by Albright-Well Co. and shipped to taxpayer's lessees were 34, 27, 24 and 13, respectively.

A proposed determination was prepared denying the right to allocation on the grounds that no regular place of business was maintained.

The Bureau of Law disagreed with the proposed determination and in a memorandum dated November 24, 1964 to the Tax Commission stated the taxpayer's applications should be granted on the ground that the plant of the independent contractor, Albright-Well, constituted a regular place of business of the taxpayer.

Commissioner Palestin, after review, agrees with the Bureau of Law position.

Accordingly, the taxes have been corrected as follows:

	<u>1959</u>	<u>1960</u>	<u>1961</u>	<u>1962</u>
Net Income	\$240,437.09	\$310,052.98	\$341,165.97	\$148,235.73
Business Allocation	17.1944%	23.31%	17%	13.2%
New York Base	41,341.72	72,273.35	57,998.21	19,567.12
Tax at 5 1/2%	2,273.79	3,975.03	3,189.90	1,076.19
Original Tax	13,224.04	16,450.65	18,764.13	8,152.97
Reduction	\$ 10,950.25	\$ 12,475.62	\$ 15,574.23	\$ 7,076.78

Chairman

WFS:MB
January 21, 1965

Approved
James R. Macduff
1/28/65

Ira J. Palestin
2/2/65