

A-2

STATE OF NEW YORK  
DEPARTMENT OF TAXATION AND FINANCE  
BOARD OF CONFEREES - CORPORATION TAX BUREAU

In the Matter of the Application :  
of :  
METDIST, INC. : Hearing Case No. 6164  
for revision or refund of franchise :  
tax for the period ended December 31, :  
1963. :

On December 14, 1966 a reproduction of form CT-7 was filed claiming refunds of taxes for the fiscal years ended August 31, 1962 and 1963, the period ended December 31, 1963, and the calendar years 1964 and 1965.

The application, as it pertained to the fiscal years ended August 31, 1962 and 1963, was not accepted as it was not filed within three years from the time of the filing of the reports as required by Section 214 of the Tax Law.

The taxpayer computed and paid the following taxes:

	<u>12/31/63</u>	<u>12/31/64</u>	<u>12/31/65</u>
Entire Net Income	\$11,695.92	\$52,815.76	\$155,131.51
Tax at 5½%	643.28	2,904.87	8,532.23

The taxpayer has made installment payments of \$8,532.23 on its estimated 1966 tax.

The taxpayer was incorporated under the laws of Delaware on September 1, 1961 and claims it is not subject to the franchise tax because its sole activities in New York are in foreign commerce.

The file was sent to New York and a Field Audit report dated February 28, 1967 reads, in part, as follows:

"The taxpayer is a subsidiary of Metal Distributors, Ltd. (U.K.), Barrington House, 59/67 Gresham Street, London, E.C. 2, England. The parent company maintains no offices within the United States.

"The taxpayer corporation was incorporated in the United States for the sole purpose of taking advantage of this country's practice of guaranteeing, in certain instances, that United States corporations selling to customers in India will be paid in American dollars.

"The activities of the subject corporation are all directed through its statutory office at 60 Wall Street, New York City, (U.S. Corporation Trust Co.). The examiner visited the premises at this address, and it was noted that the name of the corporation appears on the directory in the lobby. The head starter stated that the corporation has no office in the building and that the room number listed is that of the U.S. Corporation Trust Co. The corporation is not listed in the New York Telephone directory.

"The taxpayer maintains no regular office, employees, officers, tangible personal property or records within the United States. It does maintain one employee and desk space in the office of the parent company located in England.

"The records of the taxpayer, which were shipped from England to the attorneys in New York City, disclose that the purchases are made from the parent and unrelated companies with corresponding sales to customers in India.

"The company from which taxpayer receives its commission income, Ametalco, Inc. (an unrelated corporation), is contacted by mail from the office of the parent company in England. The commission income covers the sale of metal ore to India.

The taxpayer maintains no office, employees, officers or tangible personal property within New York State. The corporation is not "doing business" in New York State so as to be subject to franchise taxes."

Based on the foregoing, taxes paid for the periods ended December 31, 1963, 1964, and 1965, as well as estimated tax paid for the calendar year 1966 will be refunded.

W. F. Scelbini  
Chairman

A. H. Sullaby

J. J. Jurevics

WFS:MB  
4/20/67

*Approved  
E. A. Sweeney*

*Walter Madlyn Center 4/27/67*

*Approved: Walter Madlyn Center 26 APR. '67*

*OK J. B. M. 27 Apr. 67*