

STATE OF NEW YORK

STATE TAX COMMISSION

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In the Matter of Petition :  
of :  
GREAT AMERICAN AUTO LEASING CO., INC. :  
for redetermination of deficiencies of :  
franchise tax under Article 9-A of the :  
tax law for the fiscal years ended April :  
30, 1968 and April 30, 1969, and redeter- :  
mination of deficiency of license fee :  
under Article 9 for the fiscal year ended :  
April 30, 1968. :  
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Great American Auto Leasing Co., Inc. having filed petition for redetermination of deficiencies of franchise tax under Article 9-A of the tax law for the fiscal years ended April 30, 1968 and April 30, 1969, and redetermination of deficiency of license fee under Article 9 for the fiscal year ended April 30, 1968, and a hearing having been held in connection therewith on October 27, 1971 at the office of the State Tax Commission, 80 Centre Street, New York City, before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing Michael C. Temkin, president of the corporation, and Harold Kahn, Certified Public Accountant, appeared personally and testified on behalf of the taxpayer, and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Great American Auto Leasing Co., Inc. was incorporated under the laws of New Jersey on February 8, 1961 and began operations in New York on May 1, 1965. It is engaged in the auto leasing business.

(2) The taxpayer filed franchise tax returns and a license fee report treating mortgages on real property and

sundry accounts receivable as investment capital. The mortgages were acquired by purchase and aggregated \$1,214,262 for the fiscal year ended April 30, 1968 and \$607,131 for the fiscal year ended April 30, 1969. The sundry accounts receivable aggregated \$70,784 for the fiscal year ended April 30, 1969. All the mortgages were disposed of by the taxpayer in the early part of 1969.

(3) The Corporation Tax Bureau issued notices of deficiency on January 19, 1970, treating the real property mortgages and sundry accounts receivable as business capital, as follows:

	<u>FYE 4/30/68</u>	<u>FYE 4/30/69</u>
Business and investment capital reported	\$2,160,417.00	\$1,346,535.00
Adjusted investment capital	21,300.00	11,173.00
Business capital	2,139,117.00	1,335,362.00
Business allocation	52%	57%
Allocated business capital	1,112,340.84	761,156.00
Tax at 1.08 mills	1,201.39	
Tax at 1.25 mills		951.45
Subsidiary capital tax	.79	1.00
Total tax	1,202.12	952.45
Tax reported	487.51	530.00
Deficiency	\$ 714.61	\$ 422.45
		<u>License Fee</u>
		<u>FYE 4/30/68</u>
No par value shares		5,000
License fee allocation		51.4197%
No par value shares allocated to New York		2,571
License fee at \$.06 per share		154.26
License fee reported		83.20
Deficiency		\$ 71.06

(4) Timely petition for redetermination of the above deficiencies was filed.

(5) Section 208.5 of the tax law reads, in part:

"The term 'investment capital' means investments in stocks, bonds and other securities \* \* \*;"

(6) Section 3.31 c of Ruling of the State Tax Commission promulgated March 14, 1962 reads, in part:

"The 'other securities' referred to in the definition of investment capital are limited to securities issued by governmental bodies and securities issued by corporations, of a like nature as stocks and bonds \* \* \*. They do not include corporate obligations not commonly known as securities, such as real property or chattel mortgages \* \* \* and other commercial instruments."

(7) Section 208.7 of the tax law reads, in part:

"The term 'business capital' means all assets, other than subsidiary capital, investment capital \* \* \*,"

The State Tax Commission hereby

DECIDES:

(A) The real property mortgages and sundry accounts receivable do not qualify as investment capital pursuant to (5) and (6) above and must be treated as business capital.

(B) The notices of deficiency issued on January 19, 1970 are affirmed as correct, together with interest due in accordance with Section 1084 of the tax law.

Dated: Albany, New York

this 12th day of January 1972.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner