

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of Petition :
 of :
JAYCEE FLEET LEASING CORP. :
for redetermination of deficiency of :
franchise tax under Article 9-A of :
the tax law for the fiscal year ended :
September 30, 1970. :

Jaycee Fleet Leasing Corp. having filed petition for re-determination of deficiency of franchise tax under Article 9-A of the tax law for the fiscal year ended September 30, 1970, and a hearing having been held on June 6, 1972 before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at the office of the State Tax Commission, 80 Centre Street, New York City, at which hearing Stephen A. Wareck, Vice President of the Corporation, and Jerome P. Friedman, 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) Jaycee Fleet Leasing Corp. was incorporated under the laws of Connecticut on March 26, 1961 and is engaged in the business of leasing automobiles.
- (2) It filed New York State franchise tax returns and paid taxes through the fiscal year ended September 30, 1967. The corporation filed an activities report on Form CT-245 for the fiscal year ended September 30, 1968 claiming it was not subject to franchise tax because its presence in New York was limited to the ownership of automobiles leased to New York customers.
- (3) The Corporation Tax Bureau requested the taxpayer to file a franchise tax report for the fiscal year ended September 30, 1970. The taxpayer disclaimed liability and on July 1, 1971 filed a blank return on Form CT-3 accompanied by a copy of the Federal

return. On October 15, 1971 the Corporation Tax Bureau issued a notice of deficiency computed as follows:

Federal taxable income	\$23,024.72
Tax at 7%	1,611.73
Additional charge	402.93
Interest to October 15, 1972	80.59
Total deficiency	\$ 2,095.25

(4) A timely petition for redetermination of deficiency was filed. In addition to disclaiming liability for tax, the corporation protested the imposition of the additional charge of 25% or \$402.93 for delinquency and claimed it was entitled to an allocation of its entire net income. It subsequently filed a completed Schedule G on Form CT-3 showing a business allocation of 29.7670%.

(5) The offices and garage of the taxpayer are located in New Haven, Connecticut. Some automobiles are leased to New York customers who for the most part obtain the New York registrations and drive up to Connecticut to accept delivery. In a few instances the corporation itself obtains the New York registration and delivers the automobile to the customer in New York. When the vehicle requires servicing and/or maintenance, the New York lessees have two options. They can bring the vehicles into any service and repair facility, pay the charges and deduct such costs from the next leasing payment; or, they can obtain a Jaycee Fleet Leasing credit card which is honored in various dealership facilities in New York State.

(6) Section 209.1 of Article 9-A of the tax law, effective for taxable years beginning on and after January 1, 1969 states in part:

"For the privilege of * * * doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity * * * every * * * foreign corporation * * * shall annually pay a franchise tax, upon the basis of its entire net income, or upon such other basis as may be applicable * * *."

(7) Section 210.3(a)(4) of Article 9-A of the tax law states in part:

"* * *; provided, however, that if the taxpayer does not have a regular place of business outside the state other than a statutory office, the business allocation percentage shall be one hundred per cent;"

(8) Section 4.11(b) of Ruling of the State Tax Commission dated March 14, 1962 states in part:

"A regular place of business is any bona fide office (other than a statutory office), factory, warehouse, or other space which is regularly used by the taxpayer in carrying on its business."

The State Tax Commission hereby

DECIDES:

(A) The ownership of property in this state, namely automobiles, which are leased to New York customers, subjects the corporation to franchise tax pursuant to Section 209.1 of Article 9-A.

(B) Failure to file a timely return was not due to wilful neglect and the additional charge of 25% is annulled.

(C) The taxpayer has a regular place of business outside New York and is entitled to an allocation of its business income.

(D) The notice of deficiency is revised as follows, together with interest due in accordance with the provisions of Section 1084 of Article 27 of the tax law:

Entire net income	\$23,024.72
Business allocation	29.7670%
Allocated entire net income	\$ 6,853.77
Revised tax deficiency at 7%	\$ 479.76

Dated: Albany, New York

this 18th day of September 1972.

STATE TAX COMMISSION

William G. Gorman

President

Robert H. Hawley

Commissioner

Melvin Korman

Commissioner