

ALCAN ALUMINUM CORPORATION

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of Petitions :
 of :
ALCAN ALUMINUM CORPORATION :
for redetermination of deficiencies :
of franchise tax under Article 9-A :
of the tax law for 1969, 1970 and :
1971. :

The taxpayer having filed petitions for redetermination of deficiencies of franchise tax under Article 9-A of the tax law for 1969, 1970 and 1971, and a hearing having been held at the office of the State Tax Commission, State Campus, Albany, New York, at which hearing C. F. Pawlicki, assistant secretary, and D. J. Kapraly, tax supervisor, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Alcan Aluminum Corporation ("Alcan") filed returns claiming large investment tax credits for 1969 and 1970, and carry over of unused credit to 1971, and remitted only the minimum tax for each of those three years. The Corporation Tax Bureau, based on a field audit examination conducted by its Buffalo District Office, disallowed a portion of the investment tax credit claimed for 1969 and 1970, and carry over of unused credit to 1971.

Statements of audit adjustment and notices of deficiency were issued computed as follows:

| | 1969 | 1970 | 1971 |
|-----------------------------------------------|-------------|-------------|-------------|
| Adjusted tax on capital | \$35,876.96 | \$49,760.64 | \$70,388.12 |
| Adjusted subsidiary capital tax | 1,981.85 | 234.75 | 60.42 |
| Total | 37,858.81 | 49,995.39 | 70,448.54 |
| Less adjusted investment tax credit allowable | 11,239.29 | 8,825.55 | 27,902.72 |
| Adjusted tax liability | 26,619.52 | 41,169.84 | 42,545.82 |
| Less tax reported | 100.00 | 100.00 | 125.00 |
| Tax deficiency | 26,519.52 | 41,069.84 | 42,420.82 |

Alcan claimed investment tax credit in 1969 and in 1970 for property put into use in 1969 and 1970. The Corporation Tax Bureau disallowed the credit on property which qualified for optional depreciation under Section 210.3 (d) and under Section 210.3 (e) of the Tax Law. Property on which an expenditure was made prior to January 1, 1968 qualified for optional depreciation under Section 210.3 (d) of the Tax Law. Property on which an expenditure was made prior to January 1, 1969 qualified for optional depreciation under Section 210.3 (e) of the Tax Law. This resulted in disallowance of investment tax credit of \$84,306.19 for 1969 and \$68,534.97 for 1970, and no carry forward of unused credit to 1971.

(2) The taxpayer submitted information at the hearing indicating it was entitled to an additional credit of \$3,180.04 for 1969 and \$2,907.79 for 1970, resulting in revised deficiencies as follows:

| | 1969 | 1970 |
|---------------------------------------|-------------|-------------|
| Tax deficiency as indicated above | \$26,519.52 | \$41,069.84 |
| Less additional investment tax credit | 3,180.04 | 2,907.79 |
| Revised tax deficiency | 23,339.48 | 38,162.05 |

(3) Section 210.12(a) of the tax law provides for an investment tax credit of one percent of the cost or other basis of tangible property. However, Section 210.12(c) reads in part:

"A taxpayer shall not be allowed a credit under this subdivision with respect to any property described in paragraph (b) hereof if such property qualifies for the deduction allowed under either subparagraph three of paragraph (d) or paragraph (e) of subdivision three of this section whether or not such amount shall have been deducted."

(4) The property on which investment tax credit is not allowable qualifies for optional depreciation as follows:

| <u>Tax Law Section</u> | <u>Cost</u> | <u>Business Allocation % Applicable</u> | <u>Optional Depreciation Allowable</u> |
|------------------------|-------------|-----------------------------------------|----------------------------------------|
| 210.3(d) | \$9,770,050 | 100.00 | \$9,770,050 |
| 210.3(e) | 860,288 | 20.8721 (1969) | 179,560 |
| 210.3(e) | 4,044,995 | 22.2161 (1970) | 898,640 |

The State Tax Commission hereby

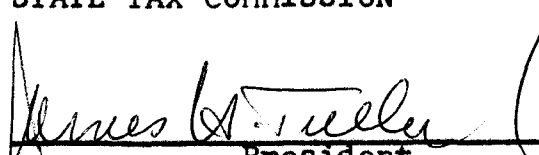
DECIDES:

(A) The taxpayer is entitled to optional depreciation as indicated in (4).

(B) The tax deficiency for 1971 set forth in (1) and the revised tax deficiencies for 1969 and 1970 set forth in (2) are affirmed, together with interest in accordance with Section 1084 of Article 27 of the tax law. The investment tax credit is not allowable on property which qualifies for optional depreciation under Section 210.3(d) and 210.3(e).

Dated: Albany, New York
this 14th Day of August 1975

STATE TAX COMMISSION



President



Commissioner



Commissioner