

TAX Personal Income

ART. 16 SECS. 351

Ray 20 NYCRR 263.2
KEY WORDS Allocation;
apportionment;
allocations covered
CROSS REFS. on
outside

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION

OF

MORRIS ARON

FOR REVISION OR REFUND OF PERSONAL
INCOME TAXES UNDER ARTICLE 16 OF
TAX LAW FOR THE YEAR 1959

Division ST C - Thomas State
CASE LAW CITATIONS 5-169

compare *Jumble & Bezzell*
(1961) 15 ST 208
REMARKS Memorandum

JB 1964, M Aron
Signatures Division (STC)
M. Aron (same) for 1961

The State Tax Commission having assessed additional normal income taxes on the income of the taxpayer under Article 16 of Tax Law for the year 1959 by notice of additional assessment, and the taxpayer having filed application for revision or refund related to such additional assessment and such application having been denied, and a hearing having been held on May 12, 1964 at the offices of the New York State Department of Taxation and Finance, 80 Centre Street, New York, New York, before Francis X. Boylan, Hearing Officer, and the taxpayer having appeared in person and Edward B. Popper, C.P.A., of New York, N. Y., having been present, and the record having been duly examined and considered,

The State Tax Commission hereby finds that:

(1) By notice of additional assessment No. B975655 dated August 7, 1961, the State Tax Commission assessed additional normal income taxes for the year 1959 in the amount of \$191.60. Such additional assessment resulted in part from the allocation to New York State of 75% of the total allocable compensation of \$30,000 reported by the taxpayer, and business expenses were reallocated accordingly. Certain contributions claimed were disallowed. The taxpayer had claimed that \$15,000

of allocable earnings of \$30,000 were apportionable to New York and taxable. By application for revision or refund which was denied, the taxpayer raised the issue of the proper apportionment of his earned income within and without the State.

(2) The taxpayer, a nonresident of this State and a resident of South Norwalk, Connecticut, was the president of M. Aron Corporation of New York, New York, and was president also of Corday, Inc., of South Norwalk, Connecticut, a separately incorporated corporation, not a subsidiary of M. Aron Corporation. Both corporations were closed corporations controlled by the taxpayer.

(3) M. Aron Corporation and Corday, Inc. had close business relations through the common ownership by the taxpayer. M. Aron Corporation served as a sales agency for the sale of ties; the cutting of these ties and the contracting out of the actual manufacture of them was done by Corday, Inc., and inventories of stock were stored at its premises in Connecticut.

(4) The taxpayer in the year under consideration was actually employed at the New York offices two days a week out of a six-day week, working practically full time on those days for the M. Aron Corporation. He worked four days a week on the premises of Corday, Inc. in Connecticut but devoted part of his time, found to be one-half thereof, to work of the M. Aron Corporation.

(5) The taxpayer as president of M. Aron Corporation personally directed at Connecticut but in behalf of M. Aron Corporation the functions of purchasing new stocks of textiles and of assembling orders for customers at quoted prices. An adequate business reason existed for the taxpayer's performing this work in Connecticut, rather than at New York, as it is

found, in that inventories of stock located there were a factor to be considered by him, and certain personnel of Corday, Inc. were consulted with there by the taxpayer in connection with his carrying out these and other duties on behalf of M. Aron Corporation.

Upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

D E T E R M I N E S:

(A) That the income of the taxpayer, a nonresident, earned in the year under consideration, 1959, from the M. Aron Corporation of New York, New York, was earned as a corporate officer, as president of the said corporation, in an occupation carried on partly in New York to the extent of one-half of the total work performed by him for the said corporation both within and without the State; and pursuant to the provisions of Tax Law section 351 and relating regulation (20 NYCRR 263.2), such income was properly apportionable as being subject to income tax of the State of New York to the extent of one-half thereof.

(B) That the additional taxes assessed by notice of additional assessment No. B975655 dated August 7, 1961 for the year 1959 are hereby restated in full as follows:

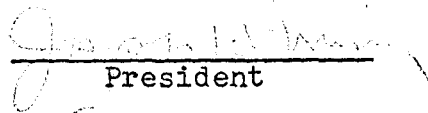
Total compensation		<u>\$30,000.00</u>
Allocation to New York State-50%		\$15,000.00
Business expenses at 50%	\$260.00	
Contributions allowable	<u>544.00</u>	[804.00]
Adjusted net income		\$14,196.00
Exemptions		[3,000.00]
Taxable balance		<u>\$11,196.00</u>
Normal tax	\$535.68	
Statutory credit	[25.00]	
Normal tax due	\$510.68	
Tax withheld	<u>1,000.00</u>	
Overpayment	\$489.32	

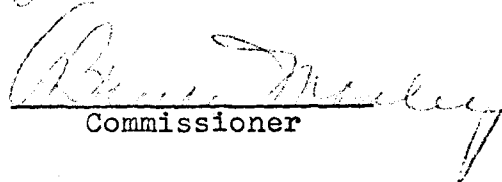
The said amount of \$489.32 is to be refunded to the taxpayer and it is so ORDERED.

(C) That the taxpayer's related application for revision and review as to the year 1959 is granted to the extent above indicated in paragraph (B), which modifies the amount of income apportioned to New York as earned therein and taxable.

DATED: Albany, New York, this 2nd day of June, 1969.

STATE TAX COMMISSION


President


Commissioner


Commissioner