

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
JANE A. MALLINCKRODT	:	DETERMINATION
	:	DTA NO. 807553
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article 22	:	
of the Tax Law and Chapter 46, Title T, of the	:	
Administrative Code of the City of New York for	:	
the Years 1983 and 1984.	:	

Petitioner, Jane A. Mallinckrodt, c/o Anderson Trading, Inc., 900 Third Avenue, 12th Floor, New York, New York 10022, filed a petition for redetermination of a deficiency or for refund of personal income tax under Article 22 of the Tax Law and Chapter 46, Title T, of the Administrative Code of the City of New York for the Years 1983 and 1984.

Petitioner, by her representative, Juan D. Keller, Esq., and the Division of Taxation by its representative, William F. Collins, Esq. (Andrew J. Zalewski, Esq., of counsel) consented to have the controversy determined on submission of documents without hearing, with all documents and briefs to be submitted by October 15, 1991. Petitioner filed a brief on August 1, 1991. The Division filed a brief on September 27, 1991, and petitioner filed its reply brief on October 15, 1991. Based upon a review of the entire record, Jean Corigliano, Administrative Law Judge, renders the following determination.

ISSUE

Whether petitioner is entitled to the resident tax credit provided for in section 620 of the Tax Law for taxes she paid to Missouri.

FINDINGS OF FACT

Petitioner, Jane A. Mallinckrodt, timely filed New York State and City resident income tax returns for 1983 and 1984. On each return, she claimed a resident tax credit for income taxes paid by her to the State of Missouri.

On May 5, 1986, the Division of Taxation ("Division") issued to petitioner a Statement of Audit Changes for the years 1983 and 1984, making several adjustments to petitioner's calculation of income tax for those years. The only adjustment relevant to this determination is the Division's disallowance of the resident tax credits. The Division provided the following explanation for the disallowance: "A resident credit cannot be allowed for taxes paid to another state on income from intangible personal property including dividends, interest, and gains from the disposition of intangible personal property." The statement shows a total amount due for 1983 and 1984 of \$62,798.00, consisting of a tax deficiency of \$19,487.00 and a penalty under Tax Law § 685(c) of \$1,593.00 for 1983 and a tax deficiency of \$41,418.00 for 1984. The \$300.00 balance represents an addition error.

On August 11, 1987, the Division issued to petitioner a Notice of Deficiency for the years 1983 and 1984, asserting a combined New York State and New York City tax deficiency of \$62,798.00 plus interest.¹

The Division and petitioner executed a Stipulation of Facts which is adopted here as Findings of Fact "5" through "16", except that references to exhibits, have been omitted.

Jane A. Mallinckrodt (hereinafter "Petitioner") was an income beneficiary during the

¹The Statement of Audit Changes shows the imposition of a penalty of \$1,593.00 under section 685(c) of the Tax Law for the year 1983. This amount was included in the Division's calculation of the tax deficiency of \$62,798.00 and was not separately stated as a penalty. Petitioner has requested cancellation of all tax, penalty and interest asserted by the notice of deficiency. Attached to petitioner's 1983 New York State income tax return is a letter from Burke & Burke on behalf of petitioner, enclosing a check in the amount of \$39,582.00 representing tax, interest on late payment and penalty for underpayment of estimated tax in the amount of \$1,593.00.

Petitioner's taxable years of 1983 and 1984 of trusts (hereinafter collectively referred to as the "Trusts") established under will or pursuant to intervivos conveyance.

The Trusts are either intervivos trusts created by Missouri residents or testamentary trusts probated in the State of Missouri.

The Trusts are Missouri resident trusts properly administered and taxed pursuant to Missouri State law.

The Trusts (except the Arcadian Trust; Trust No. 55607-00-6) filed U.S. Fiduciary Income Tax Returns and Missouri Fiduciary Income Tax Returns for the Trusts' taxable years ending in 1983 and 1984.

Centerre Trust Company ("Centerre") was trustee or custodian of the Trusts during calendar years 1983 and 1984.

Centerre, a Missouri banking corporation, was not authorized to administer trusts in the State of New York during 1983 and 1984.

For the Trusts' taxable years ending in 1983 and 1984, the Trusts received dividend and interest income on stock, bonds and other evidence of indebtedness held by the Trusts.

The Petitioner reported her distributive share of dividend and interest income earned by the Trusts and taxable by the State of Missouri on her Missouri State Individual Income Tax Returns for the 1983 and 1984 taxable years in the amount of \$829,075 and \$923,373 respectively.

The Petitioner paid income tax to the State of Missouri on her distributive share of the dividend and interest income earned by the Trusts and taxable by the State of Missouri equal to \$38,078 for the Petitioner's 1983 taxable year and \$41,718 for the Petitioner's 1984 taxable year.

The Petitioner was a resident of the State of New York during calendar years 1983 and 1984.

The Petitioner reported her distributive share of dividend and interest income earned by the Trusts and taxable by the State of New York on her New York State income tax returns for

her 1983 and 1984 taxable years in the amount of \$775,126 and \$818,825, respectively.

The facts contained in the Affidavit of Charles H. Wyers are a true account of the expected testimony of Charles H. Wyers if he would be called as a witness in the current proceeding.

Mr. Wyers was employed by Centerre as an administrator of the Trusts in 1983 and 1984. By his affidavit, Mr. Wyers states, inter alia: "The statements attached to the 1983 and 1984 U.S. Fiduciary Income Tax Returns for each Trust evidences the correct reporting of Jane Anderson Mallinckrodt's distributive share of income earned by the Trusts and taxable by the State of Missouri on her Missouri State Individual Income Tax Returns for her 1983 and 1984 taxable years in the amount of \$829,075 and \$923,373 respectively."

The Missouri individual income tax returns filed by petitioner do not clearly indicate whether petitioner filed as a resident or nonresident of Missouri in 1983 and 1984.

CONCLUSIONS OF LAW

A. As material to this determination, Tax Law § 620(a) provides: "A resident shall be allowed a credit against the tax otherwise due under this article for any income imposed for the taxable year by another state of the United States...upon income both derived therefrom and subject to tax under this article" [emphasis added]).²

Thus, to qualify for the credit, a New York resident must establish not only that it paid a tax on income to another taxing jurisdiction, but also that the income upon which the tax was paid was "derived" from the other taxing jurisdiction (see, Matter of Leach v. Chu, 150 AD2d 842, 540 NYS2d 596). In order to determine whether income is derived from another state, the Division interprets the term "derived therefrom" to accord with New York source rules used to determine the New York adjusted gross income of New York's nonresident taxpayers (20 NYCRR 121.4[d]). Those rules are set forth at Tax Law § 631 and 20 NYCRR part 131. The

²Chapter 46, Title T of the Administrative Code of the City of New York, which imposes New York City personal income tax, contains essentially the same provisions as Article 22 of the Tax law. Unless otherwise specified, all references to particular sections of article 22 shall be deemed references, although uncited, to the corresponding sections of Title T.

effect of applying the New York source rules to determine whether income is "derived" from another taxing jurisdiction is described in 20 NYCRR 121.4(d) which states:

"Thus, the resident credit against ordinary tax is allowable for income tax imposed by another jurisdiction upon compensation

for personal services performed in the other jurisdiction, income from a business, trade or profession carried on in the other jurisdiction, and income from real or tangible personal property situated in the other jurisdiction. On the other hand, the resident credit is not allowed for tax imposed by another jurisdiction upon income from intangibles, except where such income is from property employed in a business, trade or profession carried on in the other jurisdiction. Thus, for example, no resident credit is allowable for an income tax of another jurisdiction on dividend income not derived from property employed in a business, trade or profession carried on in such jurisdiction."

The Division determined that petitioner's distributive share of the trust income was from intangibles, notably dividends and interest, and, therefore, not income "derived" from Missouri, within the meaning of Tax Law § 620(a). There is no question that if the situation were reversed, i.e., if the trust were a New York resident trust and if petitioner were not a resident of New York, petitioner's share of the trust income would not constitute New York source income under New York rules for taxing nonresidents and thus would not be subject to New York income tax.³

The crux of the matter then is whether it was proper for the Division to interpret section 620(a)

³The New York source income of a nonresident individual includes, inter alia, "his share of estate or trust income, gain, loss and deduction, determined under section six hundred thirty-four" (Tax Law § 631[a][3]). Pursuant to section 634, a nonresident beneficiary's New York source income must be determined in accordance with the applicable rules of Tax Law § 631, i.e., the New York source rules generally applicable in the case of a nonresident individual (Tax Law § 634[a][1]). In accordance with those rules, income from intangible personal property is deemed to be New York source income only to the extent that such income is from property employed in a trade, business or profession carried on in New York (Tax Law § 631[b][2]). The amount of income, gain, loss and deduction allocated to a beneficiary is deemed to have the same character for purposes of New York's income tax law as for Federal income tax purposes or, if not characterized for Federal purposes, to have the same character as if realized directly from the source (Tax Law § 634[a][2][B]). Thus, a nonresident beneficiary's allocated share of trust income derived from dividends and interest would not constitute New York source income under the applicable provisions of the Tax Law.

in accordance with New York's source rules to determine whether petitioner's income was "derived" from Missouri within the meaning of Tax Law § 620(a).

B. A tax credit is similar in nature to a tax exemption in that both reduce the total amount of tax due. Thus, the rules of construction applicable to tax exemptions apply with equal force to tax credits. To qualify for a tax exemption, the taxpayer bears the burden of proving not only that her interpretation of the statute is a plausible one, but also that it is the only reasonable construction (Matter of Auerbach v. State Tax Commn., 142 AD2d 390, 536 NYS2d 557); however, the statute cannot be construed so narrowly and literally as to defeat its settled purpose (Matter of Grace v. New York State Tax Commn., 37 NY2d 193, 371 NYS2d 715, 718, lv denied 37 NY2d 708, 375 NYS2d 1027).

C. Petitioner makes three arguments to support her position that the Division has not properly interpreted the language of section 620(a). First, she argues that a trust is the equivalent of a business, hence the intangible personal property in question was employed in a business carried on in Missouri within the meaning of 20 NYCRR 121.4(d). Petitioner cites several State Tax Commission decisions to support this argument. Second, petitioner argues that denial of the credit violates the legislative purpose of the tax statute, which is "to protect New York residents from being subjected to double taxation" (Matter of Smith v. New York State Tax Commn., 120 AD2d 907, 503 NYS2d 169, citing Memoranda of State Department of Taxation and Finance, 1962 NY Legis Ann, at 233). Finally, petitioner contends that the Commerce Clause of the Federal constitution requires an interpretation of section 620(a) which allows the credit.

D. Petitioner points out that while the pertinent regulation generally disallows the credit for tax on income from intangibles it does provide for an exception. The credit is allowed if the intangible property producing the income is "property employed in a business, trade or profession carried on in the other jurisdiction" (20 NYCRR 121.4[d]). In order to avoid double taxation, petitioner construes the quoted language of section 121.4(d) to include any trust property. From petitioner's standpoint, the Missouri Trusts were "doing business" in Missouri

within the meaning of 20 NYCRR 121.4(d) because they were administered and managed in Missouri; hence, the trust income was from intangible "property employed in a business, trade or profession carried on in [Missouri]" (20 NYCRR 121.4[d]). This argument is rejected.

A trust may be defined as "[a] right of property, real or personal, held by one party for the benefit of another" (Black's Law Dictionary, 1352 [5th ed]). The word "trust" is a convenient term to describe a body of legal rights of parties interested in an aggregation of assets, but the trust fund is not a legal entity (see, Matter of Alderdice's Will, 71 NYS2d 84, 87, revd on other grounds 273 App Div 62, 79 NYS2d 313). The trustee holds the trust property and has certain powers and duties respecting that property, although it has no beneficial interest in it (61 NY Jur, Trusts, § 8). Centerre was a Missouri banking corporation and the trustee of the Trusts. Centerre was in the business of administering and managing the trust property (for which it received a fiduciary fee), but the trust property was not employed in Centerre's business. Moreover, the trust property was entirely intangible property such as stocks and bonds. Inasmuch as the trust property did not consist of real property in Missouri or a business carried on in Missouri, the trust property was not "property employed in a business" within the meaning of 20 NYCRR 121.4(d).

Petitioner argues that past New York State Tax Commission decisions are based on the rationale that a trust is to be treated as if it were a business for purposes of the resident tax credit. The cases cited by petitioner in support of this position are not persuasive.

In Matter of Myers (State Tax Commission, August 26, 1977), a New York resident claimed the tax credit on taxes paid to Pennsylvania on two sources of income, interest income from bank accounts and a trust fund held in Pennsylvania. The Commission held that the taxpayer was not entitled to a credit for tax paid on the interest income, but it granted the credit for tax paid on income from the trust. The Commission decision cites to Tax Law § 620(b)(1) which sets forth a formula for determining the amount of the credit. The Commission did not provide a statutory citation or any other discussion to explain its reason for granting the credit. Attempting to harmonize the holding in Myers with 20 NYCRR 121.4(d), the Division argues

that, since the Commission made no factual findings with regard to the property from which Ms. Myers's trust income was derived, it can be "presumed" that such income was from property employed in a business, trade or profession carried on in Pennsylvania. Petitioner argues that the Commission must have concluded that a trust carries on a business in the state of its residency. I decline to adopt either interpretation of the decision because I find that the discussion in Myers is so lacking in factual detail or legal analysis that it can have little if any precedential value.

The second State Tax Commission decision cited by petitioner is Matter of Stover (State Tax Commission, May 6, 1983 [TSB-H-83(136)I]). There, a New York resident claimed a tax credit for "Minimum Tax" paid to Minnesota on income from two Minnesota trusts. The trusts owned marketable securities and real property in Minnesota which was leased to a mining company. "Each trust receive[d] its income primarily from royalties arising from the shipments of taconite under a lease to Eveleth Taconite Company" (id.; emphasis added). The Commission granted the credit stating: "the income consisting of royalties from the sale of taconite ore in the State of Minnesota... was 'income derived from sources within the other taxing jurisdiction' within the meaning and intent of section 620(a) of the Tax Law" (id.; emphasis added). The Commission did not make a separate finding with regard to any income which may have been earned on the marketable securities, nor did it explain the manner in which the Minnesota Minimum Tax was calculated. The credit was allowed for the full amount of the Minnesota tax paid. In her reply brief, petitioner states: "there is no reason to believe that the [Minnesota] tax liability of \$4,377 included only tax on the royalty income and not on the income from marketable securities" (Petitioner's Reply Brief at 3). Since there are no findings of fact in the Stover decision that demonstrate the manner in which the Minnesota Minimum Tax was calculated, it is not possible to know whether Minnesota imposed tax on income from the securities. Again, without greater factual detail, I decline to presume that the calculation of Minnesota Minimum Tax included trust income derived from marketable securities.

E. Petitioner argues that since the overriding purpose of the resident tax credit is to avoid double taxation the statute must be construed so as to grant her the credit. In construing a statute, the primary consideration is to ascertain and give effect to the intention of the legislature (Matter of Sutka v. Connors, 73 NY2d 395, 541 NYS2d 191, 194). Where, after reading the statute, the meaning is unclear, the legislative purpose may be found by inquiring into the spirit and purpose of the statute as well as the legislative history (id.). It is a fundamental rule of statutory construction that all parts of an act are to be construed as a whole and that the parts must be read and construed together to determine the legislative intent (McKinney's Cons Laws of NY, Book 1, Statutes § 97).

In construing section 620(a) it is not enough to say, as does petitioner, that the legislation was intended to avoid double taxation of New York residents. Former section 640 of the Tax Law (relating to a limited credit to nonresidents of the amount of income tax imposed by the state of residence) was repealed and section 620(a) was amended in 1962 (L 1962, ch 2). The Memorandum of the Department of Taxation and Finance (1962 McKinney's Session Laws of NY, at 3467) in support of these changes states:

"New York residents will not be subject to double taxation because they will be protected by the resident credit provided for in section 620 of the Tax Law. This section provides a credit to residents of New York against their New York tax for income taxes paid to states other than New York upon income derived from such states." (id.; emphasis added.)

The fact that both the memorandum and the statute speak of tax on income "derived" from other states indicates that the Legislature intended to qualify the credit in the manner in which 20 NYCRR 121.4(d) does qualify it. Otherwise, the statute might simply have allowed the credit for all income taxes paid to another taxing jurisdiction and subject to tax under article 22. The purpose of the statute then is to protect New York residents from double taxation upon income derived from another taxing jurisdiction. This purpose is served by looking to New York's source rules to interpret the "derived therefrom" language of section 620(a). While section 620 does not explicitly direct the use of those rules to make this determination, it should be noted that the language of section 631 repeats that of section 620. Section 631(a) provides

that the New York source income of a nonresident individual is the amount of Federal adjusted gross income "derived from or connected with New York sources" Based on the similarity of the language, it is reasonable to conclude that the Legislature intended to create a symmetry between New York's taxation of its resident and nonresident taxpayers. Interpreting the language of section 620(a) to accord with that of section 631 creates such symmetry, and thus is reasonable and consistent with the legislative intent.

Matter of Edgell (State Tax Commission, January 13, 1971) supports the Division's position here. Mr. Edgell was domiciled in New Hampshire, but he was a New York resident individual because he spent more than 183 days in New York in each of the subject years. Mr. Edgell derived all of his income from intangibles, primarily as the beneficiary of trusts administered in Maryland and New York. As a New Hampshire domicile, he was obligated to and did pay New Hampshire a tax on the income from the intangible property. He claimed a New York resident tax credit in the amount of the tax paid to New Hampshire. The Commission denied the credit, noting that the term "income...derived therefrom" as used in section 620 must be construed to accord with the New York source rules used to determine the New York adjusted gross income of a New York nonresident taxpayer. Applying those rules, the Commission denied the credit holding that "the resident credit does not apply in respect to the tax upon income from intangibles" (id.). As petitioner points out, Mr. Edgell paid tax to New Hampshire because New Hampshire was his domicile, not because the income was derived from trusts located within New Hampshire. Nonetheless, Edgell supports the Division's application of the New York source rules to determine whether income is "derived" from another taxing jurisdiction.

Petitioner does not go so far as to read the term "derived therefrom" out of the statute. Rather, she argues that her income was derived from Missouri because its source is intangible personal property held by a Missouri trust. Petitioner has not cited either New York or Missouri law to support this premise. Even if it is assumed that New York should apply the source rules of another jurisdiction to determine the source of the income of a New York resident, petitioner

has not shown entitlement to the credit.

The fact that the Trusts were subject to Missouri's tax law does not establish that petitioner was required to file and pay Missouri income tax on her share of income from the Trusts.⁴ Neither Mr. Wyers' affidavit nor the stipulated facts constitute a sufficient basis for finding that petitioner's income constituted Missouri source income under Missouri law. Both documents state that petitioner reported "income earned by the Trusts and taxable by the State of Missouri on her Missouri State Individual Income Tax Returns". This language is too vague to support a conclusion that the income was "derived" from Missouri.⁵ If petitioner meant that the trust income retained its character as Missouri source income after its distribution to an out-of-state beneficiary, it was incumbent upon her to cite to a Missouri statute or case law which supports that proposition. This she failed to do. The one case cited by petitioner, Westfall v. Director of Revenue (804 SW 2d 27 [Mo App 1990]), contains no discussion

relevant to Missouri's taxation of Missouri nonresident beneficiaries. Before deferring to Missouri's tax law, New York must at least be able to satisfy itself that petitioner did not pay the Missouri tax under a mistake of law or for some other reason.⁶ Inasmuch as petitioner has not

⁴As stated above, petitioner would not be taxed by New York if the states of residency were reversed.

⁵The evidence in this record does not preclude the possibility that petitioner's income was taxable by the State of Missouri because she was a Missouri resident or domiciliary.

⁶It is not apparent from reading the governing Missouri statutes that the income received by petitioner was Missouri source income under Missouri law. Section 143.391 of the Missouri Tax and Revenue Law provides as follows:

"1. The share of a nonresident estate or trust...and the share of a nonresident beneficiary of any estate or trust...in estate or trust income, gain, loss, and deduction, from sources within Missouri shall be determined as follows:

(1) There shall be determined the items of income, gain, loss, deduction, and credit derived from sources within Missouri which enter into the definition of federal distributable net income of the estate or trust for the taxable year (including such items from another estate or trust of which the first estate or trust is a beneficiary). Such determination of source shall be made under regulations

established that her distributive share of trust income was "derived" from Missouri under either Missouri or New York law, the Division's denial of the credit must be sustained.

F. Petitioner cites Matter of Smith v. New York State Tax Commn. (120 AD2d 907, 503 NYS2d 169) for the general proposition that the resident tax credit is available for tax paid to another state on any income received from a New York nonresident trust. In Smith, a Massachusetts trust paid fiduciary taxes to Massachusetts prior to making an accumulations distribution to Mrs. Smith, a New York resident and a beneficiary of the trust. The Division argued that the Smiths were not entitled to a resident tax credit because the Massachusetts tax was paid by the trust and not by Mrs. Smith. The court disagreed. It found that the legislative purpose of the tax credit was to avoid double taxation on the same income. Since Mrs. Smith effectively bore the burden of paying the Massachusetts tax, inasmuch as she was required to include in New York income both the amount of the actual distribution and the amount of the

prescribed by the director of revenue in accordance with the applicable rules of section 143.181 as in the case of a nonresident individual."

Section 143.181 provides, as pertinent here:

"(1) The Missouri nonresident adjusted gross income shall be that part of the nonresident individual's federal adjusted gross income derived from sources within Missouri....It shall be the sum of:

* * *

"(b) His share of estate or trust income and distributions determined under section 143.391....

"2. Items of income, gain, loss, and deduction derived or connected with sources within this state are those items attributable to:

(1) The ownership or disposition of any interest in real or tangible personal property in this state; and

(2) A business, trade, profession, or occupation carried on in this state.

3. Income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this state." (Mo Ann Stat §§ 143.391, 143.181, [Vernon]; emphasis added).

fiduciary tax paid by the trust, the court held that she was entitled to the resident tax credit.

The court in Smith was not asked to construe the "derived therefrom" language of section 620(a) or to determine whether 20 NYCRR 121.4(d) is a reasonable construction of the statutory provision. Since these issues were not before the court, the Smith opinion is not an adequate basis for finding that the regulation does not reasonably construe the statute.

G. Petitioner maintains that disallowance of the tax credit would violate the Commerce Clause of the United States Constitution. Since the issue being raised is whether the Division has properly interpreted the statute by regulation, rather than the constitutionality of the statute itself, it is one that may be considered here.

As the Division noted, there is no absolute constitutional barrier to taxation of intangible property by more than one state (see, State Tax Commission of Utah v. Aldrich, 316 US 174). However, a state may not use its taxing scheme to discriminate against business carried on outside that state or to favor local business at the expense of out-of-state business (see, Westinghouse v. Tully, 466 US 388; Boston Stock Exchange v. State Tax Commission, 429 US 318).

Petitioner asserts that denying the resident tax credit under circumstances such as those that exist here would provide a commercial advantage to financial institutions and trust companies located in New York over competing businesses located outside of New York. Petitioner hypothesizes that denial of the tax credit would provide New York residents with an incentive to establish trusts in the state of New York rather than in foreign states. This argument is completely speculative. In the cases cited by petitioner, Westinghouse v. Tully (*supra*) and Boston Stock Exchange v. State Tax Commission (*supra*), the Supreme Court looked at the legislative history of the challenged enactments and analyzed real and hypothetical transactions before concluding that the New York tax statutes placed an unconstitutional burden on out-of-state economic activities. Petitioner has not offered any comparable evidence to show that denial of the resident tax credit under the circumstances existing here would favor the

establishment of New York trusts by residents of other states.

H. The Division imposed a penalty of \$1,593.00 under section 685(c) of the Tax Law for an underpayment of estimated tax in 1983. Petitioner essentially conceded that her 1983 tax was underestimated (see Footnote "1") and has not shown that the underpayment was due to reasonable cause; therefore, the penalty is sustained. However, the record shows that this penalty was reported and paid in 1984 along with the tax reported to be due on petitioner's 1983 return. Accordingly, the amount of the tax deficiency assessed will be reduced by the amount of the penalty included therein.

I. The Division concedes that an addition error was made in the calculation of the tax deficiency. By its answer to the petition, the Division conceded that the total tax due for 1983 is \$19,487.00 and the total tax due for 1984 is \$41,418.00.

J. The petition of Jane Mallinckrodt is granted to the extent indicated in Conclusions of Law "H" and "I", and in all other respects the petition is denied.

DATED: Troy, New York

ADMINISTRATIVE LAW JUDGE