STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFEREES - CORPORATION TAX BUREAU

In the Matter of the Applications of :

VERMONT INDUSTRIES OF AMERICA, INC. :

For revision or refund of franchise :
taxes for the fiscal years ended September
30, 1963 and 1964 under Article 9-A of :
the Tax Law.

Hearing Case No. 6169

The taxpayer computed and paid the following taxes:

	9/30/63	9/30/64
Entire Net Income	$334,718.92	$419,028.74
Tax at 5½%	18,409.54	23,046.58

The taxpayer's principal business activity is that of a whole-sale winery.

On December 12, 1966 timely applications for revision or refund were filed, accompanied by amended forms CT-3.

The applications state that during the taxable years involved, the taxpayer maintained a regular place of business outside New York State as defined in Section 4.11 of Ruling of State Tax Commission.

The taxpayer delivers to its independent contractor, A. Perelli-Minetti & Sons, Delano, California, merchandise for processing, packaging and storage until shipment to customers.

This Board agrees with the taxpayer that it had a regular place of business outside New York State.

Receipts in Schedule E 2(e) were from shipments made from the Delano plant in California to states west of Chicago, and are allo-cable 50% to New York pursuant to Section 4.19 of the Ruling.

We recommend that the taxes be corrected as follows:

	9/30/63	9/30/64
Entire Net Income	$334,718.92	$419,028.74
Business allocation	76.575%	77.551%
New York Base	256,311.01	324,960.98
Tax at 5½%	14,097.10	17,872.85
Payments	18,409.54	23,046.58
Credit due taxpayer	$ 4,312.44	$ 5,173.73

The taxpayer has also filed a claim for refund for the fiscal year ended September 30, 1965 and the tax has been corrected on the above basis.

/s/ _____
WILLIAM F. SULLIVAN
Chairman

/s/ _____
DONALD H. GILHOOLY

/s/ _____
J. J. GENEVICH

WFS:MB
1/19/67

Approved
E. A. DURAN

Approved: WALTER MACLYN CONLON 31 Jan 1967

I agree JAMES R. MACDUFF 1-31-67