

No additional tax was due from Alpha Broadcasting since it was liable only for the minimum tax of \$125.00 on an individual basis for each year. Such minimum tax was paid with the combined returns.

(2) Alpha Computer, incorporated in New York on May 1, 1967, was engaged in the rendering of data processing services and operated from rented offices located at 226 West 37 Street, New York City. Alpha Broadcasting, incorporated in Pennsylvania on February 8, 1971, owned and operated a radio station in Williamsport, Pa. Salamanca, incorporated in New York on December 15, 1969, owned and operated a radio station in Salamanca, New York.

Alpha Computer reported gross receipts from services in the amount of \$409,301 for FYE 4/30/72 and \$397,112 for FYE 4/30/73, all received from outsiders. It rendered some services for its two subsidiaries in the form of accounting, billing, payroll, legal, sales, general administration, etc. No charge was made to the subsidiaries for such services.

The corporations reported entire net income or loss as follows:

<u>Taxpayer</u>	<u>FYE</u> <u>4/30/72</u>	<u>FYE</u> <u>4/30/73</u>
Alpha Computer	\$104,179	\$48,341
Alpha Broadcasting	(118,257)	(28,735)
Salamanca	(86,364)	(58,495)

(3) Section 211.4 of the tax law reads in part:

"In the discretion of the tax commission, any taxpayer, which owns or controls either directly or indirectly substantially all the capital stock of one or more other corporations . . . may be required or permitted to make a report on a combined basis covering any other such corporations . . . "

The State Tax Commission hereby

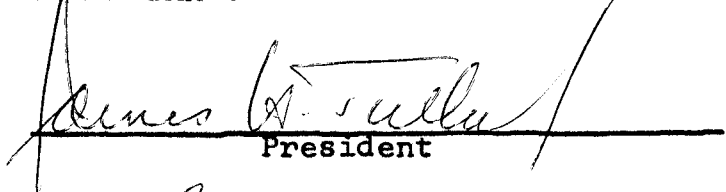
DECIDES:

(A) The parent corporation, Alpha Computer, was principally engaged in the rendering of data processing services to outsiders (as evidenced by the gross receipts reported on its returns for the years involved), whereas Salamanca operated a radio station in New York and Alpha Broadcasting operated a radio station in Pennsylvania. In weighing the extent of the services performed by Alpha Computer for its two subsidiaries, it is obvious that the profit or loss of each corporation was primarily the result of its own operations, and not due to intercompany transactions. Under such circumstances, a combined return would produce a distorted tax result in that the losses of the two subsidiaries would be offset against the profits earned by the parent, and the business allocation percentage would be reduced by commingling activities in Pennsylvania with activities conducted in New York State. It is the policy of the Tax Commission not to permit or require a combined return where taxation on an individual basis produces a more proper tax result.

(B) The notices of deficiency set forth in (1) are affirmed together with interest in accordance with Section 1084 of the tax law.

Dated: Albany, New York
this 16th day of May 1975.

STATE TAX COMMISSION


President


Commissioner


Commissioner

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of Petitions

of

ALPHA COMPUTER SERVICE CORPORATION
ALPHA BROADCASTING COMPANY, INC.
SALAMANCA BROADCASTING COMPANY, INC.

for redetermination of deficiencies
of franchise tax under Article 9-A
of the tax law for the fiscal years
ended April 30, 1972 and April 30, 1973

These three affiliated corporations having filed petitions for redetermination of deficiencies of franchise tax under Article 9-A of the tax law for the fiscal years ended April 30, 1972 and April 30, 1973, and a hearing having been held in connection therewith at the office of the State Tax Commission, 2 World Trade Center, New York City, at which hearing M. M. David, Esq. of counsel, and G. Vajda, vice-president, appeared and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) Alpha Computer Service Corporation ("Alpha Computer") filed combined returns for the fiscal years ended April 30, 1972 and April 30, 1973 with its wholly owned subsidiaries, Alpha Broadcasting Company, Inc. ("Alpha Broadcasting") and Salamanca Broadcasting Company, Inc. ("Salamanca"), without receiving prior permission. The Corporation Tax Bureau disallowed the combined returns and computed tax liability on an individual basis. Notices of deficiency were issued in the following amounts:

	FYE	FYE
<u>Taxpayer</u>	<u>4/30/72</u>	<u>4/30/73</u>
Alpha Computer	\$9,084.62	\$3,859.00
Salamanca	36.59	12.00

No additional tax was due from Alpha Broadcasting since it was liable only for the minimum tax of \$125.00 on an individual basis for each year. Such minimum tax was paid with the combined returns.

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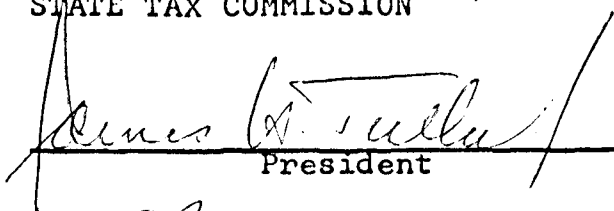
DECIDES:

(A) The parent corporation, Alpha Computer, was principally engaged in the rendering of data processing services to outsiders (as evidenced by the gross receipts reported on its returns for the years involved), whereas Salamanca operated a radio station in New York and Alpha Broadcasting operated a radio station in Pennsylvania. In weighing the extent of the services performed by Alpha Computer for its two subsidiaries, it is obvious that the profit or loss of each corporation was primarily the result of its own operations, and not due to intercompany transactions. Under such circumstances, a combined return would produce a distorted tax result in that the losses of the two subsidiaries would be offset against the profits earned by the parent, and the business allocation percentage would be reduced by commingling activities in Pennsylvania with activities conducted in New York State. It is the policy of the Tax Commission not to permit or require a combined return where taxation on an individual basis produces a more proper tax result.

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