

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Allison Beth, Inc. :
c/o Charles Beer : AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Corporation Franchise Tax :
under Article 9A of the Tax Law :
for the Fiscal Years Ending 3/31/73 & 3/31/74. :

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 30th day of January, 1981, he served the within notice of Decision by certified mail upon Allison Beth, Inc., c/o Charles Beer, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Allison Beth, Inc.
c/o Charles Beer
361 Grand St.
Mt. Vernon, NY 10550

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
30th day of January, 1981.

Connie G. Hagelund

Jay Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Allison Beth, Inc. :
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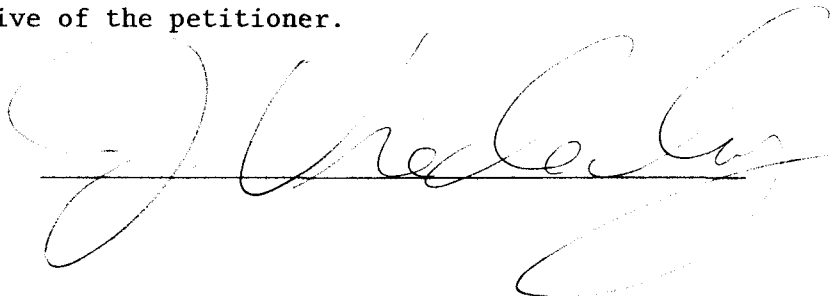
Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 30th day of January, 1981, he served the within notice of Decision by certified mail upon the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

M.R. Weiser & Co., C.P.A.'s
535 Fifth Ave.
New York, NY 10017

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
30th day of January, 1981.



STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

January 30, 1981

Allison Beth, Inc.
c/o Charles Beer
361 Grand St.
Mt. Vernon, NY 10550

Dear Mr. Beer:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
M.R. Weiser & Co., C.P.A.'s
535 Fifth Ave.
New York, NY 10017
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

_____	:	
In the Matter of the Petitions	:	
	:	
of	:	
	:	
ALLISON BETH, INC.	:	DECISION
	:	
for Redetermination of Deficiencies or	:	
for Refund of Franchise Taxes on a	:	
Business Corporation under Article 9-A	:	
of the Tax Law for Fiscal Years Ended	:	
March 31, 1973 and March 31, 1974.	:	
_____	:	

Petitioner, Allison Beth, Inc., c/o Charles Beer, 361 Grand Street, Mt. Vernon, New York 10550, filed petitions for redetermination of deficiencies or for refund of taxes on a business corporation for the fiscal years ended March 31, 1973 and March 31, 1974 (File No. 17225).

Petitioner requested, in writing, that this matter be submitted to the State Tax Commission for a decision without a formal hearing, based on the entire record contained in the file.

ISSUE

Whether petitioner could apply its investment allocation percentages to its entire net income under section 210.6 of the Tax Law.

FINDINGS OF FACT

1. Petitioner, Allison Beth, Inc., timely filed corporation franchise tax reports (Form CT-3) for the fiscal years ended March 31, 1973 and March 31, 1974. Petitioner elected to apply its investment allocation percentage to its entire net income, pursuant to section 210.6 of the Tax Law. The reports were not "combined reports".

2. In each of the subject years, petitioner's investment allocation percentage was zero and its business allocation percentage was one hundred.

3. In each of the subject years, petitioner's investment income was 100% of its entire net income. For the fiscal year ending March 31, 1973, its investment capital was 99.6% of its total capital. For the fiscal year ending March 31, 1974, its investment capital was 100% of its total capital.

4. On May 21, 1976, the Audit Division issued a Notice of Deficiency to petitioner, asserting \$1,505.62 in additional tax (exclusive of penalty and interest) for the fiscal year ended March 31, 1974.

5. On May 21, 1976, the Audit Division issued a Notice of Deficiency to petitioner, asserting \$1,107.55 in additional tax (exclusive of penalty and interest) for the fiscal year ended March 31, 1973.

6. The notices of deficiency were issued on the grounds that where the investment allocation percentage is zero, interest on bank accounts, on obligations of the United States and on obligations of New York State and its political subdivisions and its instrumentalities is to be multiplied by the business allocation percentage.

7. Petitioner timely filed petitions with respect to the notices of deficiency for the fiscal years ended March 31, 1973 and March 31, 1974.

CONCLUSIONS OF LAW

A. That section 210.3(b)(3) of the Tax Law provides, in part, as follows:

"...if a taxpayer's investment allocation percentage is zero, interest received on bank accounts, on obligations of the United States and its instrumentalities and on obligations of the State of New York, its political subdivisions and its instrumentalities shall be multiplied by its business allocation percentage."

B. That section 210.6 of the Tax Law provides, in part, as follows:

"Any taxpayer not taxed upon the basis of a combined report, the investment income of which is more than eighty-five per centum of its entire net income and the investment capital of which is more than eighty-five per centum of its total business and investment capital, may at its election apply its investment allocation percentage to its entire net income and its total business and investment capital."

C. That during the years in issue, the Business Corporation Franchise Tax Regulations [20 NYCRR Section 4.50(d)] provided, in part, as follows:

"If the investment allocation percentage used in allocating income is zero, interest received on bank accounts and obligations of the United States and its instrumentalities is multiplied by the business allocation percentage; in other words, such interest is treated as business income."

D. That during the years at issue, interest which petitioner received on bank accounts and on obligations of the United States and its instrumentalities, was required to be multiplied by petitioner's business allocation percentage under section 210.3(b)(3) of the Tax Law and the former 20 NYCRR section 4.50(d), which was effective as to tax years commencing prior to January 1, 1976 (See Matter of Petition of Revlon Overseas Corporation C.A., State Tax Commission, July 3, 1975).


B. That the petitions of Allison Beth, Inc. for the fiscal years ended March 31, 1973 and March 31, 1974 are hereby denied.

DATED: Albany, New York
JAN 30 1981

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER

STATE OF NEW YORK
STATE TAX COMMISSION

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of :
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State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 6th day of March, 1981, he served the within notice of Decision by certified mail upon Allison Beth, Inc., c/o M. R. Weiser & Co., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Allison Beth, Inc.
c/o M. R. Weiser & Co.
535 5th Avenue
New York, NY 10017

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
6th day of March, 1981.

Annice P. Haglund

J. Vredenburg

TA 26 (9-79)
STATE OF NEW YORK
State Tax Commission
TAX APPEALS BUREAU
STATE CAMPUS
ALBANY, N. Y. 12227

CLAIM CHECK NO.

☐ HOLD

DATE

2/3/81

ST NOTICE

18
2ND NOTICE
RETURN

Allison Beth, Inc. — X
c/o Charles Beer
361 Grand St.
Mt. Vernon, NY 10550

Detached from
PS Form 3800-A
Feb. 1978



2-19
Don
B/A