

BUREAU OF LAW

MEMORANDUM

Income Tax Determinations
A-Z
Kulp, Lee H.

TO: Commissioners Murphy, Palestin and Macduff

FROM: E. H. Best, Counsel

SUBJECT: LEE H. KULP
1956 Application

The issue raised herein is whether or not any part of the annual salary of \$12,000 of the taxpayer, a Chicago resident, paid to him by a New York corporation, was earned without the State.

The record discloses that the taxpayer was the chief executive officer of a New York corporation, Canaday Cooler, Inc., with its principal offices located in this State and of another corporation, Empire Cooler Service, Inc., which latter corporation carried on in the Chicago area the same type of activities carried on by the New York corporation. The taxpayer and his wife were controlling stockholders of both corporations. It appears further that the taxpayer worked 36 days within the State in the office of the New York corporation; that the remainder of the time was spent working in Chicago. The taxpayer contends that of such time, 105 days were spent in Chicago on matters concerning the New York corporation and the balance of such time was spent working for the Chicago corporation. The taxpayer alleges that the New York corporations maintains an office in the Chicago corporation's premises; that rental, therefore, is paid to the Chicago office pursuant to a lease agreement between both corporations; that the Chicago office of the New York corporation is the place where all bookkeeping is done, where the ledgers are kept, where the tax returns are prepared, billings made and mailed to customers, all promotional work is done, preparation of advertising and original purchases made. The taxpayer contends further that all policy decisions are made in the Chicago office.

I am, therefore, in accord with the hearing officer's opinion that the New York corporation maintains an office in Chicago at which the taxpayer spent 105 days working for such New York corporation.

Accordingly, the proposed determination cancelling the assessment is approved. Kindly return the file after disposition.

/s/

E. H. Best

Counsel

MS:rlp
Enclosure

September 13, 1965

STATE OF NEW YORK

STATE TAX COMMISSION

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: IN THE MATTER OF THE APPLICATION OF :
: LEE H. KULP :
: FOR REVISION OR REFUND OF PERSONAL :
: INCOME TAXES UNDER ARTICLE 16 OF :
: THE TAX LAW FOR THE YEAR 1956. :
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Lee H. Kulp having duly filed an Application for Revision or Refund under Article 16 of the Tax Law for the year 1956, and a hearing having been held in connection therewith before Laurence S. Gifford, Hearing Officer, of the Department of Taxation & Finance, at the office of the State Tax Commission, 80 Centre Street, New York, N. Y., on September 24, 1963, at which hearing the taxpayer appeared, being represented by David C. Johnson of Counsel, 55 Liberty Street, New York, N. Y., and the matter having been duly examined and considered, the State Tax Commission hereby

DETERMINES:

That the nonresident taxpayer is entitled to allocate his salary income of \$12,000.00 received from the Canaday Cooler Co. Inc. to sources within and without the State of New York on the basis as set forth on nonresident return of income filed for the year 1956 under Article 16 of the Tax Law; that on the basis thereof and as set forth on nonresident return of income filed for such year, (whereby no taxes were shown due from the nonresident taxpayer under Article 16 of the Tax Law for 1956), the taxes here at issue (as set forth in the margin), should not have been assessed and should be cancelled, and if paid, should be refunded, and IT IS SO ORDERED.

Dated: Albany, N. Y., October 22 , 1965.

THE STATE TAX COMMISSION

Joseph W. Hanger

Commissioner

Charles H. Gifford

Commissioner

James R. Gifford

Commissioner

<u>Year</u>	<u>Assessment Number</u>	<u>Total Tax Assessed</u>
1956	B-424966	\$321.00

NO
COPY

NO
COPY