

TAX *Personal Income*

ART. *22* SECS. *632*
NON VCCR 131.16

KEY WORDS
Allocation, apportionment
corp. officer, close corp.
CROSS REF. necessity

STATE OF NEW YORK
STATE TAX COMMISSION

IN THE MATTER OF THE APPLICATION
OF
MORRIS ARON
FOR REVISION OR REFUND OF PERSONAL
INCOME TAXES UNDER ARTICLE 22 OF
TAX LAW FOR THE YEAR 1961

Comparison Decision STC *Ar. (Art.)*
CASE LAW CITATIONS *1969-1970*
Jessie L. Boylan (1961)
ISAD 2d 208
REMARKS
See S.T.C. Decision
Oplando P. Thomas, 1969

The State Tax Commission having assessed additional normal income taxes on the income of the taxpayer under Article 22 of Tax Law for the year 1961 by notice of additional assessment, and the taxpayer having filed application for revision or refund related to such additional assessment and such application having been denied, and a hearing having been held on May 12, 1964 at the offices of the New York State Department of Taxation and Finance, 80 Centre Street, New York, New York, before Francis X. Boylan, Hearing Officer, and the taxpayer having appeared in person and Edward B. Popper, C.P.A., of New York, N. Y., having been present, and the record having been duly examined and considered,

The State Tax Commission hereby finds that:

(1) By notice of additional assessment No. ABO36365 dated December 5, 1962, the State Tax Commission assessed additional normal income taxes for the year 1961 in the amount of \$1,719.18. The taxpayer's total income was allocated by this Department entirely to New York by reason of a finding that taxpayer failed to supply information to support an apportionment of such earnings within and without New York State. The taxpayer had claimed that \$15,000 of allocable earnings of \$30,000 were

apportionable to New York and taxable. By applications for revision or refund which were denied, the taxpayer raised the issue of the proper apportionment of his earned income within and without the State.

(2) The taxpayer, a nonresident of this State and a resident of South Norwalk, Connecticut, was the president of M. Aron Corporation of New York, New York, and was president also of Corday, Inc., of South Norwalk, Connecticut, a separately incorporated corporation, not a subsidiary of M. Aron Corporation. Both corporations were closed corporations controlled by the taxpayer.

(3) M. Aron Corporation and Corday, Inc. had close business relations through the common ownership by the taxpayer. M. Aron Corporation served as a sales agency for the sale of ties; the cutting of these ties and the contracting out of the actual manufacture of them was done by Corday, Inc., and inventories of stock were stored at its premises in Connecticut.

(4) The taxpayer in the year under consideration was actually employed at the New York offices two days a week out of a six-day week, working practically full time on those days for the M. Aron Corporation. He worked four days a week on the premises of Corday, Inc. in Connecticut but devoted part of his time, found to be one-half thereof, to work of the M. Aron Corporation.

(5) The taxpayer as president of M. Aron Corporation personally directed at Connecticut but in behalf of M. Aron Corporation the functions of purchasing new stocks of textiles and of assembling orders for customers at quoted prices. An adequate business reason existed for the taxpayer's performing this work in Connecticut, rather than at New York, as it is found, in that inventories of stock located there were a factor

to be considered by him, and certain personnel of Corday, Inc. were consulted with there by the taxpayer in connection with his carrying out these and other duties on behalf of M. Aron Corporation.

Upon the foregoing findings and all of the evidence presented herein, the State Tax Commission hereby

D E T E R M I N E S:

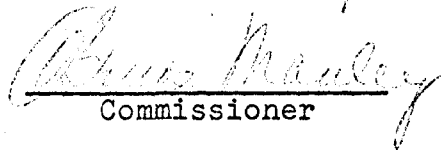
(A) That the income of the taxpayer, a nonresident, earned in the year under consideration, 1961, from M. Aron Corporation of New York, New York, was earned as a corporate officer, as president of the said corporation, in an occupation carried on partly in New York to the extent of one-half of the total work performed by him for the said corporation both within and without the State; and pursuant to the provisions of Tax Law section 632 and related instructions, such income was properly apportionable as being subject to income tax of the State of New York to the extent of one-half thereof.

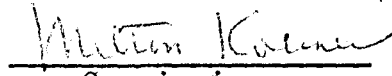
(B) That taxpayer's related application for revision and review of the additional assessment for the year 1961 is granted and the additional taxes assessed by notice of additional assessment No. ABO36365 dated December 5, 1962 for the year 1961 are hereby cancelled in full.

DATED: Albany, New York, this 2nd day of June , 1969.

STATE TAX COMMISSION


President


Commissioner


Commissioner