

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 044

June 27, 1958

COMMERCIAL DOMICILE: CHANGE

Syllabus:

The facts presented indicate a corporation's commercial domicile was changed from California to New York and that subsequently the commercial domicile was reestablished in California.

Taxpayer, a California corporation, had its principal office in San Francisco and a branch office in New York. It presents facts supporting its allegation that in late 1945 it moved its principal office to New York and San Francisco became the branch office. It also alleges that in January, 1951, the San Francisco office again became its principal office. Taxpayer received income from certain intangibles. Advice is requested whether taxpayer effectively changed its commercial domicile to New York for the period 1946-1950, inclusive, so that its dividend income was not includible in the measure of the tax for that period.

It appears that in the present case the familiar mobilia rule is applicable and taxpayer's intangibles have a tax situs at its commercial domicile. Southern Pacific Co. v. McColgan, 68 Cal. App. (2d) 48. It must be conceded that commercial domicile can be changed at the will of the corporation, provided this purpose is manifested by actions consistent therewith. In the instant case, the evidence presented is sufficient to establish that in the years involved New York was the state of taxpayer's commercial domicile. Therefore, during the years 1946-1950, inclusive, the taxpayer's income from intangible sources would not be included in its franchise tax base.