

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-83(5)C  
Corporation Tax  
November 2, 1983

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. C820610A

On June 10, 1982 a Petition for Advisory Opinion was received from Kredietbank, N.V., 450 Park Avenue, New York, New York 10022.

Petitioner, a corporation subject to Article 32 of the Tax Law (Franchise Tax on Banking Corporations), seeks to exclude from its entire net income the excess of interest received from its subsidiary on loans made to such subsidiary over its own interest expenses incurred in borrowing the funds necessary to make such loans to its subsidiary. Petitioner's subsidiary is subject to tax under Article 9-A of the Tax Law (Franchise Tax on Business Corporations). Petitioner contends that because its subsidiary is not allowed a deduction for its entire interest expense, pursuant to section 208.9(b)(5) of the Tax Law, contained in Article 9-A thereof, certain net income of the two corporations (conceived of as single business entity) is taxed twice.

Section 1453 of the Tax Law, contained in Article 32 thereof, defines entire net income as "total net income from all sources which shall be the same as the entire taxable income which the taxpayer is required to report to the United States treasury department," with certain exceptions provided by statute. Inasmuch as none of these statutory exceptions would provide Petitioner with the relief requested, Petitioner must include the subject income in its entire net income.

DATED: October 31, 1983

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau