

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

TSB-A-84 (8) C  
Corporation Tax  
June 1, 1984

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. C840509E

On May 9, 1984 a Petition for Advisory Opinion was received from McCullagh Leasing, Inc., 300 St. Paul Place, Baltimore, Maryland 21202.

The issue raised is whether interest paid by a second tier subsidiary to its "grandparent" corporation would be required to be added to Federal entire taxable income by the subsidiary in computing its entire net income under Section 208.9(b)(5) of the Tax Law, contained in Article 9-A thereof.

Petitioner, a Michigan corporation subject to Article 9-A of the Tax Law, is a wholly owned subsidiary of Auto Fleet Leasing Corporation, which is in turn a wholly owned subsidiary of Commercial Credit Company. The latter makes loans to Petitioner, its second tier subsidiary. Petitioner pays interest on such loans.

Section 208.9(b)(5) of the Tax Law provides, in pertinent part, that in arriving at entire net income for franchise tax purposes, an addition to Federal entire taxable income must be made in the amount of interest paid on indebtedness directly or indirectly owed to any stockholder or shareholder owning more than five per cent of the taxpayer's issued capital stock, or to a subsidiary of such corporate stockholder or shareholder.

Inasmuch as Petitioner's interest payments to Commercial Credit Company, its corporate grandparent, are not payments to an entity described in section 208.9(b)(5) of the Tax Law, the amount of such interest expense is not required to be added to Federal entire taxable income pursuant to Tax Law, § 208.9(b)(5). The Ore and Chemical Corporation, State Tax Commission Advisory Opinion, October 14, 1982, TSB-A-82(15)C.

DATED: May 29, 1984

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.