

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

TSB-A-85 (10) C  
Corporation Tax  
July 8, 1985

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO.C841003A

On October 3, 1984 a Petition for Advisory Opinion was received from Commercial Credit Financial Services, 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 Delaware corporation subject to Article 9-A of the Tax Law, is a wholly owned subsidiary of Textile Banking Company, Inc. which is in turn a wholly owned subsidiary of Commercial Credit Company. Since January 1, 1984, Petitioner has borrowed its operating funds directly from Commercial Credit Company (its "grandparent"), rather than from Textile Banking Company, Inc. (its shareholder). Petitioner pays interest on these borrowings directly to Commercial Credit Company. For 1984 and subsequent years, Petitioner maintains that interest paid on such loans from Commercial Credit Company is not required to be added to Federal entire taxable income pursuant to Tax Law section 208.9(b)(5).

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 section 208.9(b)(5). The Ore and Chemical Corporation, State Tax Commission Advisory Opinion, October 14, 1982, TSB-A-82(15)C.

DATED: July 1, 1985

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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