

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

TSB-A-89(15.1)C
Corporation Tax
November 9, 1990

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

MODIFIED ADVISORY OPINION PETITION NO. C890606A

On December 18, 1989, an Advisory Opinion was issued to Philip L. Krevitsky, C.P.A., 27 Park Avenue, New York, New York 10172. (TSB-A-89(15)C)

After reexamining the facts as presented by Petitioner, Philip L. Krevitsky, C.P.A., said Advisory Opinion is modified by annulling the last two paragraphs contained therein and substituting the following paragraphs.

In an Advisory Opinion of the Commissioner of Taxation and Finance issued to Hessische Landesbank-Girozentrale on May 16, 1988, he concluded that to properly and accurately reflect the alien bank's income within New York State, it was necessary for the bank to modify federal taxable income to recognize the interbranch income and expenses that were included in the computation of the eligible net income of its New York IBF. (Hessische Landesbank-Girozentrale, Adv Op Comm T & F, May 16, 1988 (TSB-A-88(12)C). On November 8, 1990, said opinion was modified to indicate that the conclusion reached for taxable years beginning on or after January 1, 1985, was also reached by the Commissioner exercising his discretion granted by section 1462(g) of the Tax Law to properly and accurately reflect the Petitioner's income within New York State.

Herein, when the domestic bank utilizes the IBF modification, it is concluded that the legislative intent of the IBF legislation has been met and that the bank's entire net income allocated within New York State is properly and accurately reflected when statutorily computed. Therefore, it is not necessary to modify the domestic bank's federal taxable income by making an adjustment, similar to the adjustment required of an alien bank in the Hessische Landesbank-Girozentrale Advisory Opinion.

DATED: November 9, 1990

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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