

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

TSB-A-86 (23.1) C  
Corporation Tax  
June 10, 1987

STATE OF NEW YORK  
STATE TAX COMMISSION

MODIFIED ADVISORY OPINION    PETITION NO. C861002A

On December 4, 1986, an Advisory Opinion was issued to Bank Negara Malaysia, P.O. Box 10922, Jalan Kuching, 50929 Kuala Lumpur, Malaysia. Such Advisory Opinion is modified by appending thereto the following discussion of additional facts subsequently presented by Petitioner.

On March 31, 1987, Petitioner was issued a ruling by the Internal Revenue Service to the effect that (1) Petitioner is a foreign government within the meaning of section 892 of the Internal Revenue Code and (2) the income received by Petitioner from its investments in the United States in U.S. government obligations, deposits in banks in the United States of moneys belonging to Petitioner, spot, forward and futures contracts in foreign currencies and precious metals (and underlying foreign currency and gold actually delivered to Petitioner), is exempt from United States income taxation pursuant to section 892 of the Internal Revenue Code.

As stated in the original Advisory Opinion, the starting point for computing entire net income, pursuant to section 1453(a) of the Tax Law, is Petitioner's federal taxable income. It has been determined by the Internal Revenue Service that Petitioner's activities do not constitute commercial activities and do not constitute the conduct of a trade or business in the United States under section 864(b) of the Internal Revenue Code, that Petitioner has no federal taxable income and that its income is exempt from tax.

Since Petitioner does not have any federal taxable income, it does not have any income which is effectively connected with the conduct of a trade or business within the United States pursuant to section 864(c) of the Internal Revenue Code. Therefore, as stated in the original Advisory Opinion, the modifications contained in section 1453(b) through (i) of the Tax Law are not applicable.

Accordingly, for New York State franchise tax purposes, the determination reached in the original Advisory Opinion is not changed. Petitioner's entire net income, alternative entire net income and taxable assets would all be zero and the tax liability of Petitioner pursuant to section 1455 of the Tax Law would be the \$250 alternative minimum tax for each taxable year.

DATED: June 10, 1987

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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