

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

TSB-A-82 (8) I
Income Tax
October 15, 1982

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. 1820902A

On September 2, 1982, a Petition for Advisory Opinion was received from Doris Palmore, 2040 Tennessee Avenue, Niagara Falls, New York 14305.

The issue raised by Petitioner is the proper treatment, for purposes of the State Personal Income Tax imposed under Article 22 of the Tax Law, of the proceeds received by a widow under Public Law 94-430, the Public Safety Officers' Benefits Act of 1976.

Section 612(a) of the Tax Law provides that the New York adjusted gross income of a resident individual, the starting point in determining New York taxable income, means Federal adjusted gross income, with certain modifications. Death benefits received pursuant to the above-cited Federal statute are made by the Law Enforcement Assistance Administration, upon a determination that "a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty." Such payments are excluded from Federal gross income, and therefore Federal adjusted gross income, pursuant to section 104(a) of the Internal Revenue Code. Rev. Rul. 77-235, 1977 CB 45. Inasmuch as section 612 of the Tax Law does not provide for a modification based on the receipt of such payments, such amounts are not required to be added to Federal adjusted gross income in determining New York adjusted gross income.

DATED: October 12, 1982

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau