

STATE OF NEW YORK  
STATE TAX COMMISSION

In the Matter of the Petition :  
of :  
Texas Instruments, Inc. :  
for Redetermination of a Deficiency or a Revision :  
of a Determination or a Refund of :  
Corporation Franchise Tax :  
under Article 9-A of the Tax Law :  
for the Years 1971 - 1973. :

AFFIDAVIT OF MAILING

State of New York  
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 27th day of June, 1980, he served the within notice of Decision by certified mail upon Texas Instruments, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Texas Instruments, Inc.  
Mail Station 408, PO Box 5474  
Dallas, TX 75222

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this  
27th day of June, 1980.

Dorothy A. Bank

J. Vredenburg

STATE OF NEW YORK  
STATE TAX COMMISSION  
ALBANY, NEW YORK 12227

June 27, 1980

Texas Instruments, Inc.  
Mail Station 408, PO Box 5474  
Dallas, TX 75222

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance  
Deputy Commissioner and Counsel  
Albany, New York 12227  
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative

Taxing Bureau's Representative



ISSUES

I. Whether the interest and dividends received by petitioner from certain affiliated corporations should be treated as income from subsidiary capital.

II. Whether certain affiliated corporations are "subsidiaries" of petitioner, as the term "subsidiary" is defined in subdivision 3, section 208, Article 9-A of the Tax Law.

FINDINGS OF FACT

1. Petitioner, Texas Instruments, Incorporated, is a corporation which was organized under the laws of the State of Maryland on December 23, 1938. It began business in New York State in 1955. Petitioner is engaged in the manufacture and sale of a variety of electronic equipment and products throughout the world. The main manufacturing operations are carried on principally in Dallas, Texas. Petitioner has many subsidiary companies which are engaged in the manufacture and sale of electronic products in numerous foreign countries. Petitioner's activities within New York State during the years in issue consisted of maintaining sales' offices in Syracuse, Endicott, Fishkill, Penfield and Rome.

2. Petitioner filed New York State corporation franchise tax reports under Article 9-A for the calendar years 1971, 1972 and 1973 on September 16, 1972, September 18, 1973 and September 16, 1974, respectively. On April 21, 1975, petitioner executed a Consent Extending the Period of Limitation of the Assessment of Tax under

Article 9-A for the year ending December 31, 1971, to September 15, 1976. On December 19, 1975, the Corporation Tax Bureau issued assessments of franchise taxes against petitioner, based on a field audit, as follows:

<u>YEAR</u>	<u>BASIC TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
1971	\$ 6,388.39	\$1,437.39	\$ 7,825.78
1972	44,768.76	8,953.75	53,722.51
1973	7,184.44	933.98	8,118.42

Petitioner agreed to a portion of the basic taxes for the years in issue and protested the balance as follows:

	<u>Agreed to Portion of Basic Tax</u>	<u>Protested Portion of Basic Tax</u>
1971	\$ 6,010.19	\$ 378.20
1972	44,537.47	231.29
1973	4,045.25	3,264.95

Petitioner timely filed a petition with respect to the aforementioned assessments.

3. In each year, the corporation treated interest and dividend amounts from companies in which it owns less than 50% of the number of shares of stock as income from subsidiary capital. The Corporation Tax Bureau reversed such treatment.

4. The companies making the payments during the years in issue were Texas Instruments Taiwan, Ltd., GSI de Mexico SA de CV and Geophysical Intercontinental, Ltd. GSI de Mexico SA de CV and Geophysical Intercontinental, Ltd. are both owned by Geophysical Service International S.A., a Panamanian corporation owned 100% by petitioner. Texas Instruments Taiwan, Ltd.'s shares of stock are held as follows:

- (a) Texas Instruments Holland B.V. (a wholly-owned subsidiary of petitioner) holds 100,000 shares.
- (b) Petitioner holds 99,995 shares.
- (c) Five (5) shares are held by five (5) individuals as nominees for petitioner, to satisfy a statutory requirement in Taiwan.

5. Subdivision 3 of section 208 of the Tax Law states that the term "subsidiary" means

"a corporation of which over fifty per centum of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by the taxpayer."

Petitioner contends that the affiliated companies more fully set forth in Finding of Fact "4", supra, should be treated as "subsidiary" corporations, since petitioner has indirect ownership and control of them.

#### CONCLUSIONS OF LAW

A. That petitioner, Texas Instruments, Incorporated, did not own over fifty per centum of the shares of stock of Texas Instruments Taiwan, Ltd. during the years in issue.

B. That petitioner, Texas Instruments, Incorporated, did not own over fifty per centum of the shares of stock of GSI de Mexico SA de CV and Geophysical Intercontinental, Ltd. during the years in issue.

C. That GSI de Mexico SA de CV, Geophysical Intercontinental, Ltd. and Texas Instruments Taiwan, Ltd. were not subsidiaries of petitioner, Texas Instruments, Incorporated, during the years in

issue, within the intent and meaning of the term "subsidiary" as defined in subdivision 3, section 208, Article 9-A of the Tax Law.

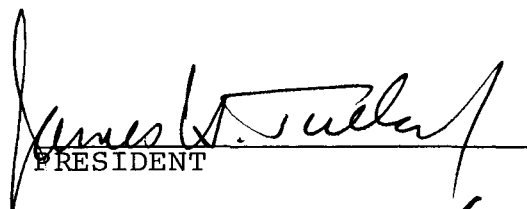
D. That the Corporation Tax Bureau correctly disallowed the interest and dividends received by petitioner during the years in issue from the affiliated corporations more fully described in Finding of Fact "4", supra.

E. That the petition of Texas Instruments, Incorporated, for 1971, 1972 and 1973 is hereby denied. Statutory interest shall be added until the entire amount due is paid.

DATED: Albany, New York

JUN 27 1980

STATE TAX COMMISSION

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER