

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of :

AMERICAN INTERNATIONAL GROUP, INC. :
AMERICAN INTERNATIONAL UNDERWRITERS CORP. :
AMERICAN INTERNATIONAL REALTY, INC. ; :
AMERICAN INTERNATIONAL GROUP REALTY CORP. ; :
AMERICAN INTERNATIONAL CREDIT CORPORATION ; :
NORTH AMERICAN MANAGERS, INC. ; :
AIG OIL RIG, INC. ; :
AIG RISK MANAGEMENT, INC. ; :
AIG DATA CENTER, INC. ; :
MIDTOWN RISK SPECIALISTS, INC. ; :
RECIPROCAL MANAGERS, INC. ; :
AI FUND DISTRIBUTORS, INC. ; :
AMERICAN INTERNATIONAL CORPORATION ; :
AMERICAN INTERNATIONAL SERVICES, INC. :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of Franchise Tax :
on Business Corporations under Article 9-A of the :
Tax Law for the Years 1971 through 1975. :

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 3rd day of July 1981, he served the within notice of Decision by certified mail upon American International Group, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

American International Group, Inc.
70 Pine St.
New York, NY 10005

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
3rd day of July, 1981.

Annie A. Hazelton

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
AMERICAN INTERNATIONAL GROUP, INC.; :
AMERICAN INTERNATIONAL UNDERWRITERS CORP.; :
AMERICAN INTERNATIONAL REALTY, INC.; :
AMERICAN INTERNATIONAL GROUP REALTY CORP.; :
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David A. Rosen
Stein, Rosen & Ohrenstein
1370 Avenue of the Americas
New York, NY 10019

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 representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
3rd day of July, 1981.

Annio A. Haglund

J. Vredenburg

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

July 3, 1981

American International Group, Inc.
70 Pine St.
New York, NY 10005

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
David A. Rosen
Stein, Rosen & Ohrenstein
1370 Avenue of the Americas
New York, NY 10019

Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions

of

AMERICAN INTERNATIONAL GROUP, INC.;
AMERICAN INTERNATIONAL UNDERWRITERS CORP.;
AMERICAN INTERNATIONAL REALTY, INC.;
AMERICAN INTERNATIONAL GROUP REALTY CORP.;
AMERICAN INTERNATIONAL CREDIT CORPORATION;
NORTH AMERICAN MANAGERS, INC.;
AIG OIL RIG, INC.;
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AIG DATA CENTER, INC.;
MIDTOWN RISK SPECIALISTS, INC.;
RECIPROCAL MANAGERS, INC.;
AI FUND DISTRIBUTORS, INC.;
AMERICAN INTERNATIONAL CORPORATION;
AMERICAN INTERNATIONAL SERVICES, INC.

DECISION

for Redetermination of Deficiencies or for
Refund of Franchise Tax on Business Corpora-
tions under Article 9-A of the Tax Law for
the Years 1971 through 1975.

Petitioner, American International Group, Inc., 102 Maiden Lane, New York, New York 10005, on its behalf and on behalf of its subsidiaries, American International Underwriters Corp., American International Realty, Inc., American International Group Realty Corp., American International Credit Corporation, North American Managers, Inc., AIG Oil Rig, Inc., AIG Risk Management, Inc., AIG Data Center, Inc., Midtown Risk Specialists, Inc., Reciprocal Managers, Inc., AI Fund Distributors, Inc., American International Corporation and American International Services, Inc. (some of which have also filed separate petitions), filed petitions for redetermination of deficiencies or for refund of franchise tax on business corporations under Article 9-A of the Tax Law for the years 1971 through 1975 (File Nos. 14394, 14395, 14396, 23003, 23004, 23005, 23006, 23007, 23008, 23009, 23010 and 23011).

A formal hearing was commenced before Edward L. Johnson, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on December 6, 1977 at 9:30 A.M. and was continued to conclusion before Jerome M. Hesch, Hearing Officer, on October 22, 1979 at 1:00 P.M. and October 23, 1979, at 9:00 A.M. Petitioners appeared by Stein, Rosen & Ohrenstein, Esqs. (David A. Rosen, Esq., of counsel). The Audit Division appeared by Peter Crotty, Esq. (Alexander Weiss, Esq., of counsel).

ISSUE

Whether the Audit Division properly denied petitioners permission to file combined franchise tax reports for the years 1971 through 1975.

FINDINGS OF FACT¹

1. On May 15, 1975, the Audit Division issued to petitioner American International Underwriters Corp. ("AIUC") a notice of deficiency, asserting additional franchise tax due under Article 9-A of the Tax Law for the year 1971 in the amount \$835.42, plus interest thereon.² Petitioners American International Group, Inc. ("AIG") and AIUC thereafter filed a timely petition for redetermination of said deficiency and also for refund, seeking the difference in amount between tax petitioners had paid and tax as computed on a combined basis. Prior to filing separate reports for 1971, petitioners had requested and been denied permission by the Audit Division to file a combined report for that year.

¹ Petitioner's post-hearing memorandum included proposed findings of fact and conclusions of law. The proposed findings of fact have in essence been adopted, and also expanded upon in accordance with the testimony and documentary evidence adduced. State Administrative Procedure Act section 302.1; 20 NYCRR 601.9(d)(5).

² The basis of the 1971 deficiency was the disallowance of optional depreciation on certain assets.

2. For each of the years 1972 through 1975, AIG and various of its subsidiary corporations requested and were denied permission to file combined franchise tax reports; for each year, a combined report was filed. The corporations included in the combined reports, and the dates and amounts of the notices of deficiency issued by the Audit Division may be summarized as follows:

(a) 1972, corporations included: AIG, AIUC.

| <u>DATE OF NOTICE OF DEFICIENCY</u> | <u>CORPORATION</u> | <u>AMOUNT</u> | <u>INTEREST</u> | <u>TOTAL</u> | <u>CREDIT APPLIED</u> |
|-------------------------------------|--------------------|-------------------|------------------|-------------------|-----------------------|
| 4/16/75 | AIG | \$ 7,510.00 | \$ 1,173.44 | \$ 8,683.44 | \$8,683.44 (1973) |
| 5/15/75 | AIUC | <u>100,698.39</u> | <u>16,368.52</u> | <u>117,066.91</u> | - |
| | | \$108,208.39 | \$17,541.96 | \$125,750.35 | \$8,683.44 |

(b) 1973, corporations included: AIG, AIUC, American International Realty, Inc. ("AI Realty"), American International Group Realty Corp. ("AIG Realty"), American International Credit Corporation ("AICCO"), North American Managers, Inc. ("NAM"), AIG Data Center, Inc. ("Data Center"), Midtown Risk Specialists, Inc. ("Midtown Risk"), Reciprocal Managers, Inc. ("RMI").

| <u>DATE OF NOTICE OF DEFICIENCY</u> | <u>CORPORATION</u> | <u>AMOUNT</u> | <u>INTEREST</u> | <u>TOTAL</u> | <u>CREDIT APPLIED</u> |
|-------------------------------------|--------------------|------------------|-----------------|------------------|-----------------------|
| 4/16/75 | AIG Realty | \$ 412.00 | \$ 33.48 | \$ 445.48 | \$445.48 (1973-AIG) |
| 5/15/75 | AIUC | <u>69,853.00</u> | <u>5,675.56</u> | <u>75,528.56</u> | - |
| | | \$70,265.00 | \$5,709.04 | \$75,974.04 | \$445.48 |

(c) 1974, corporations included: AIG, AIUC, AI Realty, AIG Realty, AICCO, NAM, AIG Oil Rig, Inc. ("Oil Rig"), AIG Risk Management, Inc. ("AIGRM"), Data Center, Midtown Risk, RMI, AI Fund Distributors, Inc. ("Fund"), American International Corporation ("International"), American International Services, Inc. ("Services").

| <u>DATE OF NOTICE OF DEFICIENCY</u> | <u>CORPORATION</u> | <u>AMOUNT</u> | <u>INTEREST</u> | <u>TOTAL</u> | <u>CREDIT APPLIED</u> |
|-------------------------------------|--------------------|--------------------|-------------------|--------------------|-----------------------|
| 3/15/78 | AIUC | \$30,310.00 | \$7,729.00 | \$38,039.00 | \$38,039.00 (1975) |
| 3/15/78 | AIG Realty | 735.00 | 165.00 | 900.00 | 900.00(1975-AIUC) |
| 3/15/78 | AI Realty | 12.00 | 3.00 | 15.00 | 15.00 (1975) |
| 3/15/78 | AICCO | 805.00 | 205.00 | 1,010.00 | 1,010.00 (AIG) |
| | | <u>\$31,862.00</u> | <u>\$8,102.00</u> | <u>\$39,964.00</u> | <u>\$39,964.00</u> |

(d) 1975, corporations included: AIG, AIUC, AI Realty, AIG Realty, AICCO, NAM, Oil Rig, AIGRM, Data Center, Midtown Risk, RMI, Fund, International, Services.

| <u>DATE OF NOTICE OF DEFICIENCY</u> | <u>CORPORATION</u> | <u>AMOUNT</u> | <u>INTEREST</u> | <u>TOTAL</u> | <u>CREDIT APPLIED</u> |
|-------------------------------------|--------------------|--------------------|-------------------|--------------------|-----------------------------------|
| 3/15/78 | AIG | \$ 2,105.00 | \$ 358.00 | \$ 2,463.00 | \$ 2,463.00 (1974) |
| 3/15/78 | AIG Realty | 4,386.00 | 746.00 | 5,132.00 | 5,132.00(1975-AIUC) |
| 3/15/78 | AICCO | 13,555.00 | 2,304.00 | 15,859.00 | 15,859.00(AIG,AIUC, Midtown Risk) |
| 3/15/78 | Data Center | 366.00 | 62.00 | 428.00 | 428.00 (1974) |
| 5/15/78 | NAM | <u>\$16,916.00</u> | <u>\$3,115.00</u> | <u>\$20,031.00</u> | <u>\$20,031.00 (1974)</u> |
| | | <u>\$37,328.00</u> | <u>\$6,585.00</u> | <u>\$43,913.00</u> | <u>\$43,913.00</u> |

The petitioner against which each of the above-mentioned deficiencies was asserted filed a timely petition in response thereto.

3. For each year at issue, AIG filed a claim for refund of the difference between tax paid and tax as calculated on a combined basis.

| <u>YEAR</u> | <u>DATE</u> | <u>TAX PAID</u> | <u>REFUND CLAIMED</u> |
|-------------|-------------|-----------------------|-----------------------|
| 1971 | 3/04/75 | \$ 200,382.27 | \$ 161,659.74 |
| 1972 | 3/04/75 | 200,600.00 | 150,314.45 |
| 1973 | 3/04/75 | 382,350.00 | 237,737.00 |
| 1974 | 9/14/78 | 615,950.00 | 426,549.00 |
| 1975 | 9/11/79 | <u>1,254,402.00</u> | <u>930,787.00</u> |
| | | <u>\$2,653,684.27</u> | <u>\$1,907,047.19</u> |

The Audit Division disallowed all of AIG's claims for refund.

4. AIG is a holding company, organized under the laws of Delaware in 1967. It is the parent corporation of fifteen insurance companies which engage in the writing of domestic and foreign insurance coverage.

5. In addition, AIG owns one hundred percent of the capital stock of the non-insurance writing subsidiaries which are petitioners herein.

(a) AIUC. AIUC is a New York corporation organized in 1926 and acquired by AIG in 1970. AIUC manages a pool of domestic insurance companies (including six AIG subsidiaries) which cover foreign-located risks of United States companies. Risks accepted by AIUC on behalf of the pool are divided among the members, with each company sharing the risks, and the premiums, based upon a pre-agreed formula. AIUC provides administrative, claims handling, actuarial, investment, underwriting, engineering, risk evaluation and other services for the pool members and earns a fee therefor. AIUC purchases such services, as well as those administrative services it necessitates for its own operations, e.g., legal, cashier and payroll, from AIG at AIG's cost. (These services are discussed in greater detail, infra.)

(b) AI Realty. AI Realty is a Delaware corporation which commenced business early in 1973. Its sole business is owning and leasing to AIG and the petitioning subsidiaries the furniture and fixtures used by them, at rentals based upon the depreciation of the asset for the particular year. This method for determining rent, as well as the depreciation schedules, is fixed by the AIG controller. Once depreciation on an asset has been fully recovered, there is thenceforth no rental charge to the subsidiary. All decisions concerning the order and purchase of furniture and equipment are made by the AIG purchasing department; AI Realty has no discretion to refuse equipment approved by AIG management.

(c) AIG Realty. AIG Realty is a New York corporation which, during the years in question, owned the buildings in New York City occupied by AIG and the petitioning subsidiaries. The buildings are leased by AIG Realty to AIG,

which in turn subleases space to the other subsidiaries at rentals established by AIG. Each subsidiary is charged in proportion to the floorspace it occupies. For the years at issue, AIG Realty operated at a loss, although AIG made several upward adjustments in total rent. AIG also directs AIG Realty as to renovations and major alterations to the buildings; in the event AIG Realty does not have sufficient funds to perform such alterations, the parent company advances money to it.

(d) AICCO. AICCO is a New Hampshire corporation organized in 1973 for the purpose of providing premium financing to outside corporations desiring to obtain property and casualty insurance. In 1973, 1974 and 1975, approximately 90 percent, 39 percent and 29 percent, respectively, of the premiums financed by AICCO related to policies written by other AIG subsidiaries; all of AICCO's borrowings to finance its business were guaranteed by AIG.

(e) NAM. NAM is a New York corporation which was organized by AIG and commenced business in 1974. It is a managing agent for foreign insurers writing coverage on risks located in the United States, and provides services to those insurers similar to the services provided by AIUC to the AIUC pool of domestic insurers. The services which NAM provides to its clients are purchased by it from AIG, at AIG's cost.

(f) Oil Rig. Oil Rig is a Delaware corporation formed to serve as general manager to a syndicate of insurance companies which insure risks involving off-shore oil rigs. Maurice R. Greenberg, AIG's president, made the decision to organize Oil Rig and was instrumental in interesting outside re-insurance companies to participate in the syndicate. Oil Rig purchases administrative services from AIG and also the services it is required to provide to its clients.

(g) AIGRM. AIGRM, a New York corporation which began business in 1974, is engaged in "risk management". In general, AIGRM advises a client corporation on an insurance program when the client wishes to partially or completely self-insure certain risks; AIGRM advises on and performs claims management functions and places re-insurance or excess risk insurance with insurance carriers (on occasion, a member of the AIG corporate family). The underwriting, actuarial, claims handling and engineering services which AIGRM provides to its clients are purchased by AIGRM from AIG at AIG's cost and resold to the clients at a profit.

(h) Data Center. Data Center is a New Hampshire corporation which began business in 1973. It assumed the electronic data processing functions of AIG and its subsidiaries, which operations had previously been performed by an AIG department. Such services are furnished by Data Center to its parent and sister corporations at cost. Its principal officers are Mr. Greenberg and AIG's controller.

(i) Midtown Risk. Midtown Risk is a New York corporation which conducts business as a surplus lines broker, primarily for an AIG insurance company which operates as a surplus lines insurer. Its leads are generated primarily through the overall marketing efforts of AIG. Its major business decisions, which relate to underwriting policy, are reviewed by Mr. Greenberg.

(j) RMI, Fund, International and Services had insignificant activities.

6. During the years at issue, AIG and its subsidiaries had numerous officers and directors in common. Maurice R. Greenberg, AIG's president, held almost daily meetings with the senior executive of AIUC and participated in policy decisions for members of the corporate family. He personally reviewed all nominations for boards of directors and officerships of all subsidiaries,

cleared agenda for all subsidiary board meetings and approved dividend amounts, before such amounts were set forth on the boards' agenda.

7. AIG established the accounting standards, policies and procedures for all subsidiaries. The controller of every subsidiary was responsible to the AIG controller's department and was required to submit to AIG economic reports in the format and with the frequency AIG prescribed. The AIG internal auditing department performed regular audits of the subsidiaries to ensure compliance with AIG accounting procedures. If Mr. Greenberg was particularly concerned over a problem uncovered upon audit, he might direct the personnel of the subject subsidiary to take appropriate remedial action.

8. The AIG treasurer's department monitored the cash position of each subsidiary and determined the balances to be maintained by the subsidiary in its accounts.

9. The AIG "major accounts" department was formed to promote the mutual marketing interests of foreign-focused business and domestic risk business and to coordinate such lines of business. Major accounts personnel were expected to represent each and every AIG facility and corporation. There were other examples in the testimony adduced of the mutual interdependence of the corporations: one of AIGRM's objectives was to direct insurance and re-insurance business to other AIG subsidiaries; the AIG engineering department referred loss control work to AIGRM; a service rendered and billed to one subsidiary (such as a computer program) might subsequently become useful to another subsidiary, which would not then be charged therefor.

10. The AIG personnel department functioned as the personnel department for all the subsidiary corporations: it recruited employees, reviewed and authorized employee discharges, operated the payroll and administered benefit

programs. Since it is fairly common that an individual be employed by more than one AIG corporation during his lifetime, it is necessary that all employees of the AIG group be covered by the same benefit plans. Approximately one-third of the job vacancies in the AIG group are filled, through the personnel department, by persons already employed by the parent or subsidiaries.

11. Among the services performed by AIG for its subsidiaries are:

(a) Medical and dental. The AIG medical and dental department renders services to all AIG corporate family employees. Expenses are allocated and billed to the subsidiaries in accordance with the number of employee visits.

(b) Cafeteria and executive dining room. Expenses are allocated to the subsidiaries based upon the size of each subsidiary's work force.

(c) Central filing.

(d) Central typing.

(e) The single cashier's unit. When this AIG department was first established, all existing subsidiaries contributed funds to a common account. During the period at issue, all payments by or to AIG and the subsidiaries were processed through the unit; for example, upon billing to AIUC for services by the AIG legal department, the single cashier's unit would draw an AIUC check and then deposit the amount to AIG. The unit also paid subsidiaries' bills to outside parties.

(f) Public affairs department. The AIG public affairs department monitors legislative activities concerning the insurance industry, and also political developments in foreign countries which may have ramifications upon AIG's business. The department's expenditures are allocated on a time study basis.

(g) Methods and procedures. Department personnel are efficiency experts.

(h) Legal department. Services include routine matters and also such matters as advice to AIUC on processing insurance claims for its pool of insurers.

(i) Traffic. Traffic is the AIG in-house travel agent which arranges for transportation and accommodations. Expenses are allocated based upon the number of travel requisitions received from each subsidiary.

(j) Engineering. The AIG engineering department reviews engineering surveys conducted by outside engineers and itself conducts loss control surveys and on-site inspections. Expense allocation is based upon the number of field hours expended; however, on a particular matter, home office supervisory time might consume a larger proportion of the department's time, resulting in an undercharge to the subsidiary for that project.

(k) Investment.

(l) Actuarial department. In 1971 and 1972, actuarial department employees were on the AIUC payroll; in 1973, they were shifted to the AIG payroll. (The shifting of a department from one corporation to another was not uncommon.) The major services performed for the AIG family include loss reserve analysis, analysis of unearned premium reserve methods, re-insurance analysis and evaluation of underwriting profitability.

12. All administrative and operational assistance rendered by AIG to its subsidiaries (including services re-sold by subsidiaries to their clients at a profit) was billed to them at AIG's cost. This policy had the result that AIG Realty operated at a loss for the years at issue. But as to NAM and Oil Rig,

profit was not marginal; nor would it have become marginal had services been billed at fair market value.

CONCLUSIONS OF LAW

A. That subdivision 4 of section 211 of the Tax Law authorizes the Tax Commission, in its discretion, to require or permit a domestic parent corporation and its wholly-owned domestic subsidiary to make a report on a combined basis. This authorization also applies to foreign corporations doing business in New York. However, no combined report covering a foreign corporation not doing business in New York may be required, unless the Tax Commission deems such a report necessary, because of intercompany transactions or some agreement, understanding, arrangement or transaction which distorts income or capital, in order to properly reflect tax liabilities.

B. That during the periods at issue, the State Tax Commission provided, by regulation, that in determining whether the tax would be computed on a combined basis, it would consider various factors, including the following:

- (1) Whether the corporations were engaged in the same or related lines of business;
 - (2) Whether any of the corporations were in substance merely departments of a unitary business conducted by the entire group;
 - (3) Whether the products of any of the corporations were sold to or used by any of the other corporations;
 - (4) Whether any of the corporations performed services for, or loaned money to, or otherwise financed or assisted in the operations of any of the other corporations;
 - (5) Whether there were other substantial intercompany transactions among the constituent corporations.
- Former 20 NYCRR 5.28(b).

The essential elements of these factors have been carried over into the current regulations which were effective for taxable years beginning on or after January 1, 1976, and which provide, in pertinent part:

"In deciding whether to permit or require combined reports the following two (2) broad factors must be met:

- (1) the corporations are in substance parts of a unitary business conducted by the entire group of corporations, and
 - (2) there are substantial intercorporate transactions among the corporations."
- 20 NYCRR 6-2.3(a).

The mandatory language of the current regulations takes cognizance of those elements which the Tax Commission has consistently deemed to be the key factors in determining whether combination should be permitted or required, i.e., the unitary nature of the business conducted by the corporations, and whether there were substantial intercorporate transactions among the corporations. Matter of Annel Holding Corp. et al., State Tax Commission, August 2, 1973, determination confirmed, Annel Holding Corp. v. Procaccino, 77 Misc. 2d 886 (Sup. Ct. Albany Co. 1974); Matter of N. K. Winston Corp. et al., State Tax Commission, August 21, 1974; Matter of Alpha Computer Service Corporation et al., State Tax Commission, September 28, 1979; Matter of Montauk Improvement, Inc. and Montauk Country Club, Inc., State Tax Commission, September 28, 1979. These factors must be given particular emphasis, although all five factors of former 20 NYCRR 5.28(b) must be considered.

C. That Reciprocal Managers, Inc., AI Fund Distributors, Inc., American International Corporation and American International Services, Inc. had insignificant activities during the years at issue and therefore were properly denied permission to file combined reports with AIG.

D. That American International Underwriters Corp., North American Managers, Inc., AIG Oil Rig, Inc. and AIG Risk Management, Inc. satisfied four of the five criteria enumerated in former 20 NYCRR 5.28(b) and were therefore improperly and erroneously denied permission by the Audit Division to file combined reports with the parent corporation. The named subsidiaries were engaged in insurance-related businesses; by virtue of the tight managerial and fiscal

control exerted by AIG over them, they functioned as departments of a unitary business conducted by the entire group; and, the extensive administrative services rendered to them by AIG fulfilled the fourth factor of the regulation. Finally, notwithstanding that the purchase from AIG and the subsequent resale to clients of such services as engineering and claims handling may not qualify as purchase and resale of "products" [former 20 NYCRR 5.28(b)(3)], such transactions constituted "substantial intercorporate transactions" between each of the above-named subsidiaries and the parent.

E. That American International Realty, Inc., the sole business activity of which was the owning and leasing of furniture and fixtures to AIG and the subsidiaries; American International Group Realty Corp., the sole business activity of which was the ownership and maintenance of the real estate occupied by the AIG group; and AIG Data Center, Inc., which was organized for the singular purpose of providing all electronic data processing services required by its parent and sister corporations should have been granted permission to file franchise tax reports on a combined basis with AIG. See Fedders Corp. v. State Tax Commission, 45 A.D.2d 359 (3rd Dept. 1974).

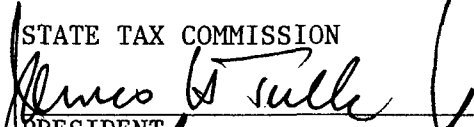
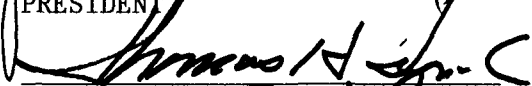
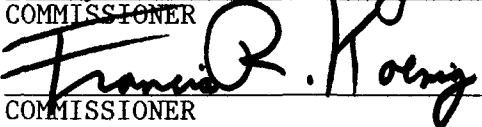
F. That petitioners demonstrated that Midtown Risk received its leads through AIG marketing endeavors and that its major business decisions were monitored by the AIG president. However, the evidence did not disclose whether Midtown Risk purchased from AIG and resold to its clients the array of services purchased and resold by the petitioning subsidiaries treated in Conclusion of Law "D" (and if so, to what extent). Midtown Risk Specialists, Inc. has therefore failed to fulfill two of the criteria of former 20 NYCRR 5.28(b) and was properly denied leave to file on a combined basis with its parent.

G. That although a certain percentage of premiums financed by AICCO related to policies written by AIG subsidiaries, those subsidiaries were not and could not be encompassed in the combined returns for the reason that they are not subject to taxation under Article 9-A. AICCO is therefore in a substantially different situation than the subsidiary in Wurlitzer Co. v. State Tax Commission, 35 N.Y. 2d 100 (1974), or Fedders Corp., supra. The corporation for which financing was provided in each of the cited cases was a business corporation taxable under Article 9-A. American International Credit Corporation has failed to establish that it was entitled to file a combined report with its parent.

H. That the petitions of American International Group, Inc., American International Underwriters Corp., American International Realty, Inc., American International Group Realty Corp., American International Credit Corporation, North American Managers, Inc., AIG Oil Rig, Inc., AIG Risk Management, Inc., AIG Data Center, Inc., Midtown Risk Specialists, Inc., Reciprocal Managers, Inc., AI Fund Distributors, Inc., American International Corporation and American International Services, Inc. are granted to the extent indicated in Conclusions of Law "D" and "E"; that the notices of deficiency issued April 16, 1975, May 15, 1975 and March 15, 1978 are to be modified accordingly; and that except as so modified, the deficiencies are in all other respects sustained.

DATED: Albany, New York

JUL 03 1981

STATE TAX COMMISSION

PRESIDENT

COMMISSIONER

COMMISSIONER