


[Tax Regulation No. 58-10 as superseded by Tax Regulation 79-2(N)); and

WHEREAS, in Carter v. Hill, 31 Haw. 264 (1930), affirmed by Hill v. Carter, 47 F2d 869 (1931), our Court has determined that as an intangible, the debt has an actual situs in California rather than Hawaii, as a result whereof the interest income received by the Taxpayer in this case does not constitute income received or derived from a source within the State; now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:


1. The interest income herein involved derives from a purchase money mortgage indebtedness.
2. As an intangible personal property, the said indebtedness has a taxable situs at the place of the owner's domicile in the State of California and the said interest income, therefore, does not constitute income received or derived from sources within the State.
3. The Taxpayer shall be refunded the excess taxes paid together with the return of costs and interest as provided in Hawaii Revised Statutes, Sections 232-23 and 232-24.

DATED: Honolulu, Hawaii, April 11, 1980.



Judge of the above-entitled Court

APPROVED AS TO FORM:



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