

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

TSB-A-83 (2) M
Estate Tax
November 17, 1983

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. M820719A

On July 19, 1982 a Petition for Advisory Opinion was filed by Philip A. Rubenstein, 3967 Sedgwick Ave., Bronx, N.Y. 10463.

Petitioner inquires as to the portion of the value of jointly owned property, owned by a husband and wife, which would be included in the gross estate of the first of the two to become a decedent. Petitioner raises this inquiry within an estate tax planning context, and asserts that the jointly held property was contributed to approximately equally by the spouses.

Section 2040(b) of the Internal Revenue Code, adopted by section 954 of the Tax Law, as amended with respect to estates of decedents whose dates of death occur on or after October 1, 1983, provides that in the case of property owned by spouses as tenants by the entirety or as joint tenants with right of survivorship, where a decedent and his or her spouse were the only joint tenants, the gross estate of the first to die includes one-half of the value of the property, irrespective of the portion of such property contributed by each.

DATED: November 7, 1983

s/FRANK J. PUCCIA
Director
Technical Services Bureau