

~~2. SUCH ASSIGNMENT ON ITS RECORDS IS BASED UPON SUBSTANTIVE CONTACTS OF THE LOAN TO SUCH REGULAR PLACE OF BUSINESS; AND~~

~~3. THE FINANCIAL INSTITUTION USES SAID RECORDS REFLECTING ASSIGNMENT OF LOANS FOR THE FILING OF ALL STATE AND LOCAL TAX RETURNS FOR WHICH AN ASSIGNMENT OF LOANS TO A REGULAR PLACE OF BUSINESS IS REQUIRED.~~

~~(III) THE PRESUMPTION OF PROPER ASSIGNMENT OF A LOAN PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY BE REBUTTED UPON A SHOWING BY THE DEPARTMENT, SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING SUCH LOAN DID NOT OCCUR AT THE REGULAR PLACE OF BUSINESS TO WHICH IT WAS ASSIGNED ON THE FINANCIAL INSTITUTION'S RECORDS. WHEN SUCH PRESUMPTION HAS BEEN REBUTTED, THE LOAN SHALL THEN BE LOCATED WITHIN THIS STATE IF:~~

~~1. THE FINANCIAL INSTITUTION HAD A REGULAR PLACE OF BUSINESS WITHIN THIS STATE AT THE TIME THE LOAN WAS MADE; AND~~

~~2. THE FINANCIAL INSTITUTION FAILS TO SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING SUCH LOAN DID NOT OCCUR WITHIN THIS STATE.~~

~~(IV) IN THE CASE OF A LOAN WHICH IS ASSIGNED BY THE FINANCIAL INSTITUTION TO A PLACE IN ANOTHER STATE WHICH IS NOT A REGULAR PLACE OF BUSINESS, IT SHALL BE PRESUMED, SUBJECT TO REBUTTAL BY THE FINANCIAL INSTITUTION ON A SHOWING SUPPORTED BY THE PREPONDERANCE OF EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING THE LOAN OCCURRED WITHIN THIS STATE IF, AT THE TIME THE LOAN WAS MADE THE FINANCIAL INSTITUTION'S COMMERCIAL DOMICILE WAS WITHIN THIS STATE.~~

~~(V) TO DETERMINE THE STATE IN WHICH THE PREPONDERANCE OF SUBSTANTIVE CONTACTS RELATING TO A LOAN HAVE OCCURRED, THE FACTS AND CIRCUMSTANCES REGARDING THE LOAN AT ISSUE SHALL BE REVIEWED ON A CASE-BY-CASE BASIS AND CONSIDERATION SHALL BE GIVEN TO SUCH ACTIVITIES AS THE SOLICITATION, INVESTIGATION, NEGOTIATION, APPROVAL AND ADMINISTRATION OF THE LOAN. THE TERMS "SOLICITATION", "INVESTIGATION", "NEGOTIATION", "APPROVAL", AND "ADMINISTRATION" ARE DEFINED AS FOLLOWS:~~

~~1. "SOLICITATION" IS EITHER ACTIVE OR PASSIVE. ACTIVE SOLICITATION OCCURS WHEN AN EMPLOYEE OF THE FINANCIAL INSTITUTION INITIATES THE CONTACT WITH THE CUSTOMER. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE FINANCIAL INSTITUTION'S EMPLOYEE IS REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEE WERE ACTUALLY PERFORMED. PASSIVE SOLICITATION OCCURS WHEN THE CUSTOMER INITIATES THE CONTACT WITH THE FINANCIAL INSTITUTION. IF THE CUSTOMER'S INITIAL CONTACT WAS NOT AT A~~