

Article 32 Franchise Tax on Banking Corporations

Taxpayers have asked whether the 17% or 60% modifications provided by section 1453(e)(11) of the Tax Law should be reduced because of expenses which are attributable to current liabilities attributable to subsidiary capital and whether the 22½% modification provided by section 1453(e)(12) of the Tax Law should be reduced by expenses attributable to interest income on obligations of New York State or any of its political subdivisions and on obligations of the United States. There are no provisions under Article 32 of the Tax Law to add back any expenses which are attributable to any interest income, dividend income, gains or losses from subsidiary capital or any expenses paid or incurred to purchase or carry obligations of New York State, or of any of its political subdivisions, or of the United States. In addition, Article 32 does not provide for any reduction in the amount on which the 17%, 60% or 22½% is computed.

Section 1453(e) of Article 32 states "There shall be allowed as a deduction in determining entire net income, to the extent not deductible in determining federal taxable income...(11) (i) 17% of interest income from subsidiary capital and (ii) 60% of dividend income, gains and losses from subsidiary capital."

Example:

Interest received from subsidiary capital	\$3,500
Deduction allowed per section 1453(e)(11)(i)	\$595 (17% of \$3,500)
Dividends received from subsidiary capital	\$12,000
Deduction allowed per section 1453(e)(11)(ii)	\$ 7,200 (60% of \$12,000)

Section 1453(e)(12) of Article 32 and 20 NYCRR 18-2.4(b)(12) allow a banking corporation, in computing entire net income, to deduct from federal taxable income 22½% of interest income on obligations of New York State or any of its political subdivisions and on obligations of the United States, other than obligations held for resale in connection with regular trading activities.

Example:

Interest received from U.S. obligations (excluding interest received from U.S. obligations held for resale in connection with regular trading activities)	\$100,000
Interest received from N.Y. obligations (excluding interest received from N.Y. obligations held for resale in connection with regular trading activities)	<u>\$ 50,000</u>
	\$150,000
Deduction allowed per section 1453(e)(12)	\$ 33,750 (22½% of \$150,000)