

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

TSB-M-89 (6)C Rev.
Corporation Tax
July 17, 1990

1989 Legislation
2 1/2% Tax Surcharge on Banking Corporations

This memorandum supersedes memorandum TSB-M-89(6)C dated June 20, 1989.

Chapter 61 of the Laws of 1989 amended Article 32 of the Tax Law to add a new section 1455-A, which provides for a 2 1/2% tax surcharge on banking corporations taxable under Article 32 of the Tax Law.

Chapter 190 of the Laws of 1990 amended section 1455-A of Article 32 of the Tax Law regarding the 2 1/2% tax surcharge on banking corporations. The amendment changed the taxable years to which the 2 1/2% tax surcharge applies and added provisions for a 15% and 10% tax surcharge on banking corporations.

The 2 1/2% tax surcharge applies to taxable years ending after June 30, 1989, but before July 1, 1990. The 2 1/2% tax surcharge cannot be imposed upon any taxpayer for more than 18 months.

The 15% tax surcharge applies to taxable years ending after June 30, 1990 but before July 1, 1992. The 15% tax surcharge cannot be imposed upon any taxpayer for more than 24 months. For additional information on the 15% tax surcharge see TSB-M-90(8)C.

The 10% tax surcharge applies to taxable years ending after June 30, 1992 but before July 1, 1993. The 10% tax surcharge cannot be imposed upon any taxpayer for more than 18 months. For additional information on the 10% tax surcharge see TSB-M-90(8)C.

The 2 1/2% tax surcharge is computed on the largest of the following taxes before the deduction of any tax credits:

- allocated taxable entire net income, or
- allocated taxable alternative entire net income, or
- allocated taxable assets, or
- fixed minimum tax.

Once computed, the 2 1/2% tax surcharge cannot be reduced by the Credit for Servicing Mortgages, the Eligible Business Facility Tax Credit, the Special Additional Mortgage Recording Tax Credit, the EDZ Capital Corporation Tax Credit, or the EDZ Wage Tax Credit.

The 2 1/2% tax surcharge does not apply to the Metropolitan Transportation Business Tax Surcharge.

The computation and payment of the 2 1/2% tax surcharge is required to be reported on Form CT-32 (or, in the case of a combined filer, on Form CT-32 A) within 2 1/8 months from the close of the taxable year. A six-month extension of time to file the franchise tax return and the 2 1/2% tax surcharge may be requested by filing Form CT-5.2 within 2 1/2 months from the close of the taxable year. The payment of the franchise tax and tax surcharge on Form CT-5.2 must either:

- if the preceding year's tax return was a 12 month return - equal or exceed the amount of franchise tax shown on the preceding year's tax return (computed after tax credits and before any tax surcharge) plus, a 2 1/2% tax surcharge (computed on the preceding year's franchise tax before the deduction of any tax credits, or
- equal or exceed 90% of the franchise tax as finally determined plus 90% of the 2 1/2% tax surcharge as finally determined.

The computation and payment of the 2 1/2% tax surcharge before the deduction of any tax credits is required to be paid as the 25% mandatory first installment of estimated tax, but not on declarations of estimated tax on Form CT-400.

The 2 1/2% tax surcharge imposed by section 1455-A --shall not be allowed as a deduction in the computation of the tax on income imposed by Article 32. If the? surcharge is deducted as an expense in the computation of federal taxable income, it must be added back to federal taxable income to arrive at New York State entire net income and alternative entire net income.

If the 2 1/2% tag surcharge required to be reported is for- a period less than the period covered by Form C-T-32 or CT-32-A:

- compute the 2 1/2%. tax surcharge for- the period covered by Form CT-32 or- CT-32-A, and
- divide the 2 1/2% tax surcharge computed in (a) by the number of months covered by Form CT-32 OR CT-32-A, and
- multiply the result in (b) by the number of months the 2 1/2% tax surcharge is required to be reported.

Example: Computation of the 2 1 /2% tax surcharge for taxable year 8/1/88- 7/31/99.

A bank filed Form CT-32 for the following taxable years:

8/1/87-7/31/88	No surcharge
8/1/88- 7/31/89	12 month surcharge computed at 2 1/2%
8/1/89-7/31/90	12 month surcharge computed at 15%
8/1/90-7/31/91	12 month surcharge computed at 15%
8/1/91-7/31/92	12 month surcharge computed at 10%
8/1/92-7/31/93	No surcharge

For the taxable year 8/1/87-7/31/88, the bank's franchise tax was \$110,000 before the deduction of any tax credits. Tax credits totaled \$10,000. The Metropolitan Transportation Business tax surcharge does not apply. For the taxable year 8/1/88-7/31/89, the bank filed Form CT-5.2 requesting a six-month extension of time to file Form CT-32. Form CT-5.2 for 8/1/88-7/31/89

should be filed on 10/15/89 as follows:

Preceding year's franchise tax	\$110,000
Less tax credits	<u>10,000</u>
Preceding year's franchise tax after credits	\$100,000
2 1/2% tax surcharge (2 1/2% x \$110,000 tax before credits)	<u>2,750</u>
Estimated franchise tax and surcharge for 8/1/88-9/31/89	102,750
25% mandatory first installment (25% x \$102,750)	<u>25,688</u>
Balance due	\$128,438

Form CT-400 required to be filed on 1/15/90, 4/15/90 and 7/15/90 should, assuming the taxpayer bases its payments on the previous year's tax each be submitted with a payment of \$25,000 (25% of \$100,000).