

Leg. Finance - House & Senate Finance Comte Files (1973-74) 8-198

HB 57 am, SCSHB 57



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

4/26/89
Date

Committee Report

S E N A T E

2/21/73

2/26/73

Date

Mr. President:

The Committee on FINANCE has had HB 57 amended
(business license tax on banks)
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for HB 57 and that
CS for HB 57 do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

<u>Bill Key</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>	<u>_____</u>

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

CHAIRMAN

UNFINISHED BUSINESS

SCS Senator Groh moved reconsideration of SENATE COMMITTEE
HB SUBSTITUTE FOR HOUSE BILL NO. 57 am S.
57
am S

HOUSE BILLS IN THIRD READING

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 57 am S
(business license tax on banks) was considered in third
reading.

Senator Groh moved and asked unanimous consent that
SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 57 am S,
be referred back to the Finance Committee. Without
objection, it was so ordered.

CSSB Senator Hohman moved and asked unanimous consent that
150 the reconsideration of COMMITTEE SUBSTITUTE FOR SENATE
am BILL NO. 150 am (annexation of military reservations) and
COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 151 (Rules)
CSSB (local government boundaries) be held over one legislative
151 day. Senator Hohman then withdrew his motion.
(Rules)

Senator Thomas moved and asked unanimous consent that the
Senate recess until 11:00 a.m. today, and then reconvene
in joint session in the House chamber to hear an address
by Chief Justice Jay A. Rabinowitz. There being no
objection, the Senate recessed at 10:53 a.m.

AFTER RECESSJOINT SESSION IN THE HOUSE

The Speaker of the House called the joint session to order
at 11:02 a.m. and deferred to the President of Senate.

Senator Thomas moved and asked unanimous consent that the
roll call of the Senate be waived and that the record
reflect all members present. There being no objection, it
was so ordered.

Original sponsor: Rules Committee
by request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska business license tax
7 on national banks and state banks, trust companies
8 and savings and loan associations; and providing for
9 an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 43.70.030(b) is amended to read:

12 (b) The license fee for each national bank and state bank, trust
13 company and savings and loan association is six [TWO] per cent of
14 its net income. Net income means the taxable income of each such
15 taxpayer before net operating loss deduction and special deductions,
16 computed as required under the Internal Revenue Code of the United
17 States and includes all other income including income from federal,
18 state or municipal obligation. Each of these taxpayers shall submit
19 a copy of the income tax return which it files with the United States
20 Collector of Internal Revenue and shall notify the commissioner of
21 revenue in writing of any alteration or modification of the federal
22 income tax return and of a recomputation of tax or determination of
23 deficiency. The taxpayer who files his federal return on a fiscal
24 year basis shall in addition submit a statement setting out all
25 information which would be required and reported in a federal income
26 tax return prepared for the calendar year. This statement shall be
27 in the same form as a federal income tax return and the net income
28 shall be computed as required under the Internal Revenue Code. The
29 statement shall be submitted to the commissioner of revenue before

1 the sixteenth day of April after the close of the calendar year.

2 * Sec. 2. This Act is retroactive to January 1, 1973.

3 * Sec. 3. This Act takes effect on the day after its passage and approval
4 or on the day it becomes law without approval.
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Introduced: 1/12/73
Referred: Commerce and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

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7 on national banks and state banks, trust companies
8 and savings and loan associations; and providing for
9 an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 43.70.030(b) is amended to read:

12 (b) The license fee for each national bank and state bank, trust
13 company and savings and loan association is eight [TWO] per cent of
14 its net income. Net income means the taxable income of each such
15 taxpayer before net operating loss deduction and special deductions,
16 computed as required under the Internal Revenue Code of the United
17 States and includes all other income including income from federal,
18 state or municipal obligation. Each of these taxpayers shall submit
19 a copy of the income tax return which it files with the United States
20 Collector of Internal Revenue and shall notify the commissioner of
21 revenue in writing of any alteration or modification of the federal
22 income tax return and of a recomputation of tax or determination of
23 deficiency. The taxpayer who files his federal return on a fiscal
24 year basis shall in addition submit a statement setting out all
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26 tax return prepared for the calendar year. This statement shall be
27 in the same form as a federal income tax return and the net income
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Introduced: 1/12/73
Referred: Commerce and
Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska business license tax
7 on national banks and state banks, trust companies
8 and savings and loan associations; and providing for
9 an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 2. AS 43.70.030(b) is amended to read:

12 (b) The license fee for each national bank and state bank, trust
13 company and savings and loan association is six [TWO] per cent of
14 its net income. Net income means the taxable income of each such
15 taxpayer before net operating loss deduction and special deductions,
16 computed as required under the Internal Revenue Code of the United
17 States and includes all other income including income from federal,
18 state or municipal obligation. Each of these taxpayers shall submit
19 a copy of the income tax return which it files with the United States
20 Collector of Internal Revenue and shall notify the commissioner of
21 revenue in writing of any alteration or modification of the federal
22 income tax return and of a recomputation of tax or determination of
23 deficiency. The taxpayer who files his federal return on a fiscal
24 year basis shall in addition submit a statement setting out all
25 information which would be required and reported in a federal income
26 tax return prepared for the calendar year. This statement shall be
27 in the same form as a federal income tax return and the net income
28 shall be computed as required under the Internal Revenue Code. The
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1 the sixteenth day of April after the close of the calendar year.

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HOUSE BILL 57 (Bank Tax)

	Est. FY 73	FY 74	FY 75	FY 76	FY 77	FY 78
Existing Tax						
2% of net income	200.0	220.0	240.0	260.0	280.0	300.0
60% to local govt.	<u>120.0</u>	<u>132.0</u>	<u>144.0</u>	<u>156.0</u>	<u>168.0</u>	<u>180.0</u>
Net to State	80.0	88.0	96.0	104.0	112.0	120.0
 HB 57						
4% of net income	400.0	440.0	480.0	520.0	560.0	600.0
60% to local govt.	<u>240.0</u>	<u>264.0</u>	<u>288.0</u>	<u>312.0</u>	<u>336.0</u>	<u>360.0</u>
Net to State	160.0	176.0	192.0	208.0	224.0	240.0
 Total Existing plus HB 57						
6% of net income	600.0	660.0	720.0	780.0	840.0	900.0
60% to local govt.	<u>360.0</u>	<u>396.0</u>	<u>432.0</u>	<u>468.0</u>	<u>504.0</u>	<u>540.0</u>
Net to State	240.0	264.0	288.0	312.0	336.0	360.0
 CSHB 57						
6% of net income	600.0	660.0	720.0	780.0	840.0	900.0
60% to local govt.	<u>360.0</u>	<u>396.0</u>	<u>432.0</u>	<u>468.0</u>	<u>504.0</u>	<u>540.0</u>
Net to State	240.0	264.0	288.0	312.0	336.0	360.0
 Total Existing plus CSHB 57						
8% of net income	800.0	880.0	960.0	1,040.0	1,120.0	1,200.0
60% to local govt.	<u>480.0</u>	<u>528.0</u>	<u>576.0</u>	<u>624.0</u>	<u>672.0</u>	<u>720.0</u>
Net to State	320.0	352.0	384.0	416.0	448.0	480.0

TO: R. D. Stevenson
Acting Commissioner
Department of Revenue

DATE : January 18, 1973

FROM: L. P. Carroll, Chief
Miscellaneous Tax Section

SUBJECT: House Bill 57 (As Amended by
House Commerce Committee)
Increasing the Alaska Bank Tax

In response to your request for research on House Bill 57 (As Amended by House Commerce Committee), raising the tax on banks and other financial institutions from 2% to 8% of net income, the following is submitted for transmitting as may be required.

Effect on Treasury:

	F/Y 73	F/Y 74	F/Y 75	F/Y 76	F/Y 77	F/Y 78
Estimate of Net State Taxable Income of Banks	10,000,000	11,000,000	12,000,000	13,000,000	14,000,000	15,000,000
Tax at Present Rate of 2%	200,000	220,000	240,000	260,000	280,000	300,000
Tax at Proposed Rate of 8%	800,000	880,000	960,000	1,040,000	1,120,000	1,200,000
Net Increase to General Fund	600,000	660,000	720,000	780,000	840,000	900,000

Problems of Administration: None

General Comments: Attachments 1 and 2 support the following conclusions:

(Attachment 1) 1. Of the 50 States, 28 States use an excise or income tax structure with an average rate of 6.91%. 22 States utilize a method other than excise/income.

(Attachment 2) 2. Of these 28 States, 18 are franchise excise tax systems, 16 of which include interest of U. S. and municipal bond interest in the measure of net taxable income (including Alaska) and have an average tax rate of 7.8%. I attach a graph illustrating the tax rate of these 16 States. You will note a high of 13.7% in Minnesota to a low of 2% in Alaska.

In summary, Alaska's present bank tax system is the method used by most excise/franchise tax States. However, the 2% tax we impose is well below any other State, or indeed, the average of all other states.

MEMO

R. D. Stevenson

January 18, 1973

Page 2

The Alaska bank license tax is a deductible item on the U. S. Corporation Income Tax Return for banks as taxpayers. What this in effect means is that Federal taxes are lessened by the amount of the Alaska tax times the applicable Federal Corporation Tax Rate. For banks having a taxable net income of \$25,000.00 or more, the Federal tax rate is 48% of net income in excess of \$25,000.00. Thus, for a bank paying \$20,000.00 in Alaska bank license taxes the savings on the Federal Corporation Return would be \$9,600.00, or almost half of the Alaska bank license tax paid. The Federal Corporation Tax Rate for banks netting less than \$25,000.00 is 26%.

Historical Note:

The tax on banks was established in 1950 at 2% of taxable income. At that time, individuals and all other corporations were paying 10% of the then effective Federal Income Tax Rates.

Since that time, individual tax has risen to 16% of the 1963 Federal Tax Rate and corporate taxes have risen to 18% of the 1963 Federal Tax Rates. Alaska banks continue to pay the rate imposed in 1950 at 2%, which may well account for the evident lag behind the bank taxes now imposed by our sister states.

LPC:fd
Attachments

TO: R. D. Stevenson
Acting Commissioner
Department of Revenue

DATE : January 17, 1973

FROM: L. P. Carroll, Chief
Miscellaneous Tax Section

SUBJECT: House Bill 57
Increasing the Alaska Bank Tax

In response to your request for research on House Bill 57, raising the tax on banks and other financial institutions from 2% to 6% of net income, the following is submitted for transmitting as may be required.

Effect on Treasury:

	F/Y 73	F/Y 74	F/Y 75	F/Y 76	F/Y 77	F/Y 78
Estimate of Net State Taxable Income of Banks	10,000,000	11,000,000	12,000,000	13,000,000	14,000,000	15,000,000
Tax at Present Rate of 2%	200,000	220,000	240,000	260,000	280,000	300,000
Tax at Proposed Rate of 6%	600,000	660,000	720,000	780,000	840,000	900,000
Net Increase to General Fund	400,000	440,000	480,000	520,000	560,000	600,000

Problems of Administration: None

General Comments: Attachments 1 and 2 support the following conclusions:

(Attachment 1) 1. Of the 50 States, 28 States use an excise or income tax structure with an average rate of 6.91%. 22 States utilize a method other than excise/income.

(Attachment 2) 2. Of these 28 States, 18 are franchise excise tax systems, 16 of which include interest of U. S. and municipal bond interest in the measure of net taxable income (including Alaska) and have an average tax rate of 7.8%. I attach a graph illustrating the tax rate of these 16 States. You will note a high of 13.7% in Minnesota to a low of 2% in Alaska.

In summary, Alaska's present bank tax system is the method used by most excise/franchise tax States. However, the 2% tax we impose is well below any other State, or indeed, the average of all other States.

MEMO

R. D. Stevenson

January 18, 1973

Page 2

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Since that time, individual tax has risen to 16% of the 1963 Federal Tax Rate and corporate taxes have risen to 18% of the 1963 Federal Tax Rates. Alaska banks continue to pay the rate imposed in 1950 at 2%, which may well account for the evident lag behind the bank taxes now imposed by our sister states.

LPC:fd

Attachments

BANK EXCISE OR INCOME TAX SUMMARY
BY STATE OR COMMONWEALTH

ALABAMA

Excise Tax - Financial institutions - 6% of taxable net income. (1)
Net income includes U. S. and municipal bond interest. (2)(3)

ALASKA

The license fee for each national bank and state bank, trust company and savings and loan association is 2% of its net income. Net income means the taxable income of each such taxpayer before net operating loss deduction and special deductions, computed as required under the Internal Revenue Code of the United States and includes all other income including income from federal, state or municipal obligations. (4)

ARIZONA

Taxed under general income tax. Corporation and financial institutions --
1st \$1,000 - 2%; 2nd \$1,000 - 3%; 3rd \$1,000 - 4%; 4th \$1,000 - 5%; 5th \$1,000 - 6%;
6th \$1,000 - 7%; over \$6,000 - 8%. (1)
Net income excludes U. S. and municipal bond interest from measure of income and allocates same against deductions. (2)(3)

CALIFORNIA

Taxed under bank and corporation franchise tax - national and state banks and financial corporations - adjusted annually with maximum of 11%; minimum for financial corporations other than banks, 7% but not less than \$100. (1)
Net income includes U. S. and municipal bond interest. (2)

COLORADO

Taxed under general income tax - corporation, banks, trust, finance savings and loan companies and cooperatives - 5% of Colorado income. (1)
Net income excludes U. S. and municipal bond interest; however, some local obligations are included. (3)

HAWAII

Bank franchise tax--11.7% of net income of banks and other financial institutions. (1)
Net income includes U. S. and municipal bond interest. (2)

IDAHO

Taxed under general income tax--Banks and corporations - 6% for exercising corporation franchise; 6% of net income for corporations not subject to corporation franchise tax. (1)
Net income includes U. S. and municipal bond interest, however, excludes Idaho bond interest. (3)

IOWA

Taxed under general income tax--Financial institutions - first \$25,000 of taxable net income - 5%; next \$50,000 - 6%; next \$25,000 - 7%; over \$100,000 - 8%. (1)
Net income includes U. S. and municipal bond interest, however, excludes Iowa bond interest. (3)

KANSAS

Taxable under excise tax--Banks, trust companies, savings and loan associations and development credit corporations: 5% on net income in lieu of tax on stock or assets. For taxable years beginning after 1970, the tax on bank and development credit corporation net income is 5-1/2% plus a 2-1/4% surtax on net income over \$25,000. The tax on trust companies and savings and loan associations is 5% plus a 2-1/4% surtax on net income over \$25,000. (1)
Net income includes U. S. and municipal bond interest. (2)

MICHIGAN

Taxable under income tax--financial institutions: 9.7% of adjusted net profits. (1)
Net income includes U. S. and municipal bond interest, however, excludes Michigan bond interest. (3)

MARYLAND

Taxable under franchise tax - Commercial banks, safe deposit and trust companies and finance corporations, 7% of annual net earnings. (1)(3)
Net income includes U. S. and municipal bond interest. (3)

MASSACHUSETTS

Taxable under corporation excise tax - Banks, banking associations and trust companies 10% of net income plus 14% surtax. Savings and cooperative banks, savings and loan associations - 1% of net operating income and 1/20th of 1% of deposits each six months plus 14% surtax. (1)
Net income includes U. S. and municipal bond interest. (3)

MINNESOTA

Taxable under excise tax - Banks 9.5% (10.5% for taxable years beginning after December 31, 1966 and before January 1, 1974) plus 1.9% for taxable years beginning after 1958 and before 1974. The base rate and additional tax are increased by 10% for taxable years beginning after 1960 and before 1974. (1)(2)
Net income includes U. S. and municipal bond interest. (2)

MISSOURI

Taxed under excise tax - Banks and trust companies and credit institutions.- 7% (1)
Net income includes U. S. and municipal bond interest. (2)

MONTANA

Taxed under corporation income tax - Corporations, and state and national banks - 6-1/4% (6-3/4% for taxable years ending on or after February 28, 1971 and before February 28, 1973) of net income derived from Montana sources. (1)
Net income excludes U. S. and municipal bond interest and allocates same against

NEBRASKA

Taxed under Corporation income tax - 2% of federal tax liability allocated and apportioned to Nebraska. (1)

Net income excludes U. S. and municipal bond interest and allocates same proportion against deductions. (2)

NEW MEXICO

Taxable under excise tax - Banks and financial corporations - 6% of net income - minimum \$100. Net income includes U. S. and municipal bond interest. (2)

NEW YORK

Taxed under franchise tax - National banking associations - 8% of net income.

State banks, savings and loan associations, savings banks and financial corporations - 8% of allocated net income. Minimum for state banks and financial corporations, \$100 or 1-6/10 mills per \$1 of allocated capital stock. Minimum for savings banks and savings and loan associations \$100 or 2% of interest credited to depositors. (1)

Net income includes U. S. and municipal bond interest. (2)

NORTH CAROLINA

Taxed under income tax - Financial institutions - banks - 6% of net income; business development corporations - 4-1/2% of net income; building and loan associations - 7-1/2% of net income, 7-1/2 cents per \$100 of liability on shares of outstanding stock. (1)

Net income includes U. S. and municipal bond interest, however, excludes North Carolina bond interest. (2)

NORTH DAKOTA

Taxed under general excise tax - Banks and trust companies (excise income) - 5%. Minimum - \$50. An additional 2% tax is imposed. (1)

Net income includes U. S. and municipal bond interest. (2)

OKLAHOMA

Taxed under general excise tax - Corporations, national and state banks - 4% of federal taxable income with adjustments. (1)

Net income includes U. S. and municipal bond interest, however, excludes Oklahoma bond interest. (2)(3)

OREGON

Corporation excise tax - 6% of net income of business done within the state.

Financial institutions - 8%. (1)

Net income includes U. S. and municipal bond interest. (2)

RHODE ISLAND

Taxed under business corporation tax - State banks - 8% of net income or \$2.50 per \$10,000 of authorized capital stock (whichever is higher); minimum \$50. National banks - 8% of net income apportioned to state. (1)

Net income includes U. S. and municipal bond interest. (2)

SOUTH CAROLINA

Taxed under excise tax - Banks - 4-1/2% of entire net income in the state. Savings and loan and similar associations, cooperative banks - 8% of net income (not applicable in first three years of operation). (1)

Net income of banks include U. S. and municipal bond interest, however, savings and loan net income excludes same and allocates it against deductions. (3)

SOUTH DAKOTA

Taxed under bank and financial corporations - Corporation excise tax - 5-1/2% of net income. (1)

Net income includes U. S. and municipal bond interest. (2)

TENNESSEE

Taxed under corporation excise tax - 5% (6% for fiscal year closings occurring on or after June 15, 1971) of net earnings from business done by corporations and banks within the state. Building and loan associations, including federal savings and loan associations, 7% of net income, effective July 1, 1971. (1)

Net income includes U. S. and municipal bond interest, however, excludes Tennessee bond interest. (2)

UTAH

Taxed under corporation franchise tax - National banks - 6% of net income allocated to state - State banks and corporations - 6% of net income or \$25. (1)

Net income includes U. S. and municipal bond interest, however, excludes some Utah bond interest. (3)

WISCONSIN

Taxed under corporation franchise tax - 2.1% on first \$1,000 graduated to 7.4% over \$6,000 of net income which includes U. S. and municipal bond interest. (3)

FOOTNOTES:

1. Ref: State Tax Handbook as of October 1, 1971, published by Commerce Clearing House, Inc.
2. Note: Per supporting abbreviated documentation which is filed with Committee Chairman.
3. Confirmed via phone with Department of Revenue, confirming letter and documentation forthcoming.
4. AS 43.70.030(b).

Attachment ① Cont'd

BANK TAX OTHER THAN EXCISE OR INCOME TAX METHOD
SUMMARY BY STATE

ARKANSAS

Taxed under Corporation franchise tax - Domestic-- $11/100$ of 1% of proportion of subscribed capital stock employed in the state. Doing no business in the state \$5. Foreign-- $11/100$ of 1% of proportion of capital stock representing property owned and used in business transacted in the state. No par stock valued at \$25 per share--minimum--\$11.

CONNECTICUT

Taxed under Corporation business tax - Certain financial institutions pay to the extent it exceeds the tax on net income a tax of 2.1% (3.2% for income years beginning on or after January 1, 1969 and prior to January 1, 1973) on interest credited to savings deposits.

DELAWARE

Taxed under Banks, trust and loan companies tax-- $1/5$ of 1% of true value of shares of capital stock, determined by adding together the amount of the capital, surplus, undivided profits, and reserves.

FLORIDA

Taxed under Corporation privilege tax--Financial corporations, if qualified, may elect to pay a \$1,000 annual franchise tax in lieu of intangibles taxes.

GEORGIA

Taxed under General property tax--State - maximum bank shares--5 mills; all other property, $1/4$ mill based on full market value of real property and tangible personal property. Property is assessed at 40% of its fair market value for state and county taxes.

ILLINOIS

Taxed under Corporation franchise tax--Initial domestic and foreign corporation franchise tax is $1/12$ of $1/10$ of 1% per month or fraction, between date of issuance of certificate of incorporation or filing application for certificate of authority, respectively and July 1 following; minimum \$25; maximum \$1,000,000. Additional franchise tax of $1/12$ of $1/10$ of 1% per month between date of each respective increase in sum of stated capital and paid-in surplus and July 1 following is due.

INDIANA

Taxed under Financial institutions tax--25c per \$100 measured by the value of capital, surplus, undivided profits and deposits, less assessed value of real estate.

KENTUCKY

Taxed under Intangibles tax--Bank deposits, 1/1000 of 1% of the amount of the deposit.

LOUISIANA

Taxed under Corporation franchise tax--\$1.50 per \$1,000 based on issued and outstanding capital stock, surplus, undivided profits, and borrowed capital. Minimum \$10. Value of stock with or without par value is the value reflected by the corporation's books.

MAINE

Taxed under Domestic corporation franchise tax--par value stocks: graduated from \$10 for \$50,000 or less to \$100 for \$1,000,000 plus \$50 per additional \$1,000,000; no par stock: from \$10 for 250 shares or less to \$100 for 10,000 shares plus \$50 per additional 10,000 shares.

MISSISSIPPI

Taxed on Banks and banking associations tax included in general property tax--Banks general property rates on adjusted net worth.

NEVADA

Taxed under General property tax--35% of full cash value of real and tangible personal property. Aggregate of state and local rates fixed to meet budget; not to exceed 5c per \$1 of assessed valuation. Bank shares and realty--35% of full cash value.

NEW HAMPSHIRE

Taxed under Bank tax--1% of excess over \$10,000 of interest paid by savings institutions on savings accounts less capital stock taxes paid. Additional tax on capital stock or special deposits--1%. National banks--1% of par value of capital stock.

NEW JERSEY

Taxed under Financial business excise tax--Financial business--1-1/2% of allocated net worth of financial businesses competing with national banks. Minimum - \$25.

OHIO

Taxed under Corporation franchise tax--Domestic and foreign (including non-profit corporations)--1/2 of 1% (investment companies and state-chartered banks, 1/10 of 1%; public utility holding companies, from 4/100 of 1% on first \$10 million of taxable value to 1/200 of 1% on taxable value over \$100 million) of value of issued and outstanding stock based on total value, as shown on the books, of capital, surplus, undivided profits and reserves (less certain reserves and expenses) allocable to Ohio. Minimum \$50.

PENNSYLVANIA

Taxed under Financial institutions tax--national and state banks, savings institutions having capital stock, title insurance and trust companies, 15 mills per \$1 actual

value of shares ascertained by adding together paid-in capital stock, surplus, and undivided profits. Mutual thrift institutions, i.e., savings banks without capital stock, building and loan associations and federal and state savings and loan associations, 11-1/2% of net earnings or income. Private bankers, 1% of gross receipts.

TEXAS

Taxed under Corporation franchise tax--\$2.75 per \$1,000 stated capital, surplus, and undivided profits plus outstanding bonds, notes, and debentures allocated according to gross receipts from intrastate business--minimum \$35.

VERMONT

Taxed under General income tax--Domestic and foreign--6% of net income from business done within the state.--Minimum \$25. Banking corporations and loan associations are subject to a 6% franchise tax reduced by the amount of corporation income tax paid.

VIRGINIA

Taxed under Domestic corporations franchise tax--No par stock valued at \$100 per share. \$10 on \$25,000 or less maximum authorized capital stock to \$15,100 on \$300,000,000; plus \$10 per \$1,000,000 in excess thereof.

WASHINGTON

Taxed under Corporation franchise tax--\$30 on \$50,000 or less, decreasing from 1/20 of 1% to 1/100 of 1% on additional amounts of domestic authorized capital stock, and foreign stock in proportion of issued and outstanding capital stock representing property and business in Washington, plus 25% surtax--maximum \$2,500. No par stock valued at the actual value of assets represented by such stock.

WEST VIRGINIA

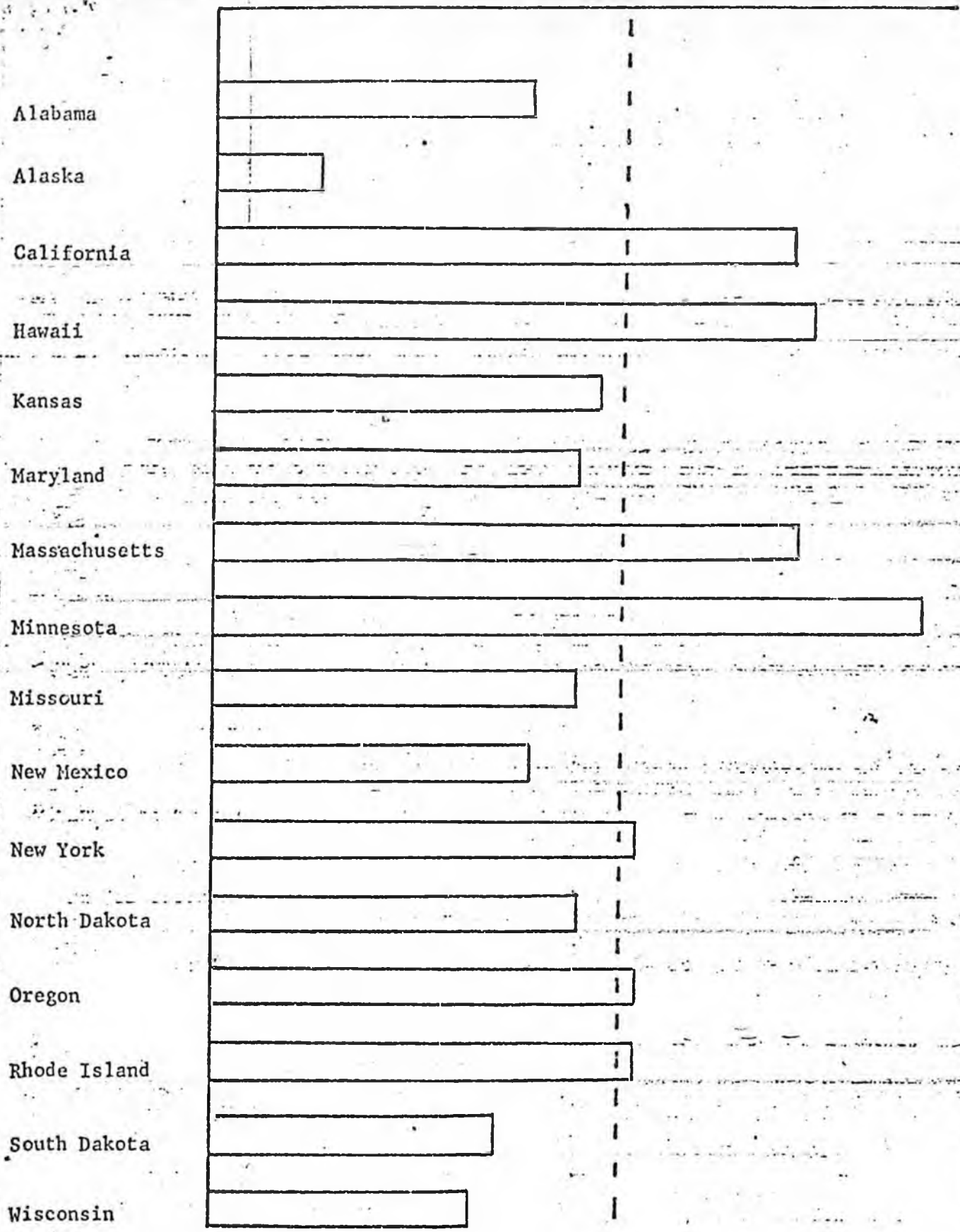
Taxed under Corporation franchise tax--Domestic--graduated from \$20 on \$5,000 or less authorized capital stock to \$2,500 on \$15,000,000 or more.

WYOMING

Taxed on Corporation franchise tax--Domestic and foreign--graduated from \$5 on \$50,000 or less to \$50 on more than \$500,000 and not more than \$1,000,000 plus \$50 on each additional \$1,000,000 portion of corporate property and assets located and employed in Wyoming.

Reference: State Tax Handbook as of 10/1/71 Commerce Clearing House, Inc.

Including all U.S. & Municipal Bond Interest
By Rate of Tax



Average 7.8%

Attachment ②

Alabama

Alaska

California

Hawaii

Kansas

Maryland

Massachusetts

Minnesota

Missouri

New Mexico

New York

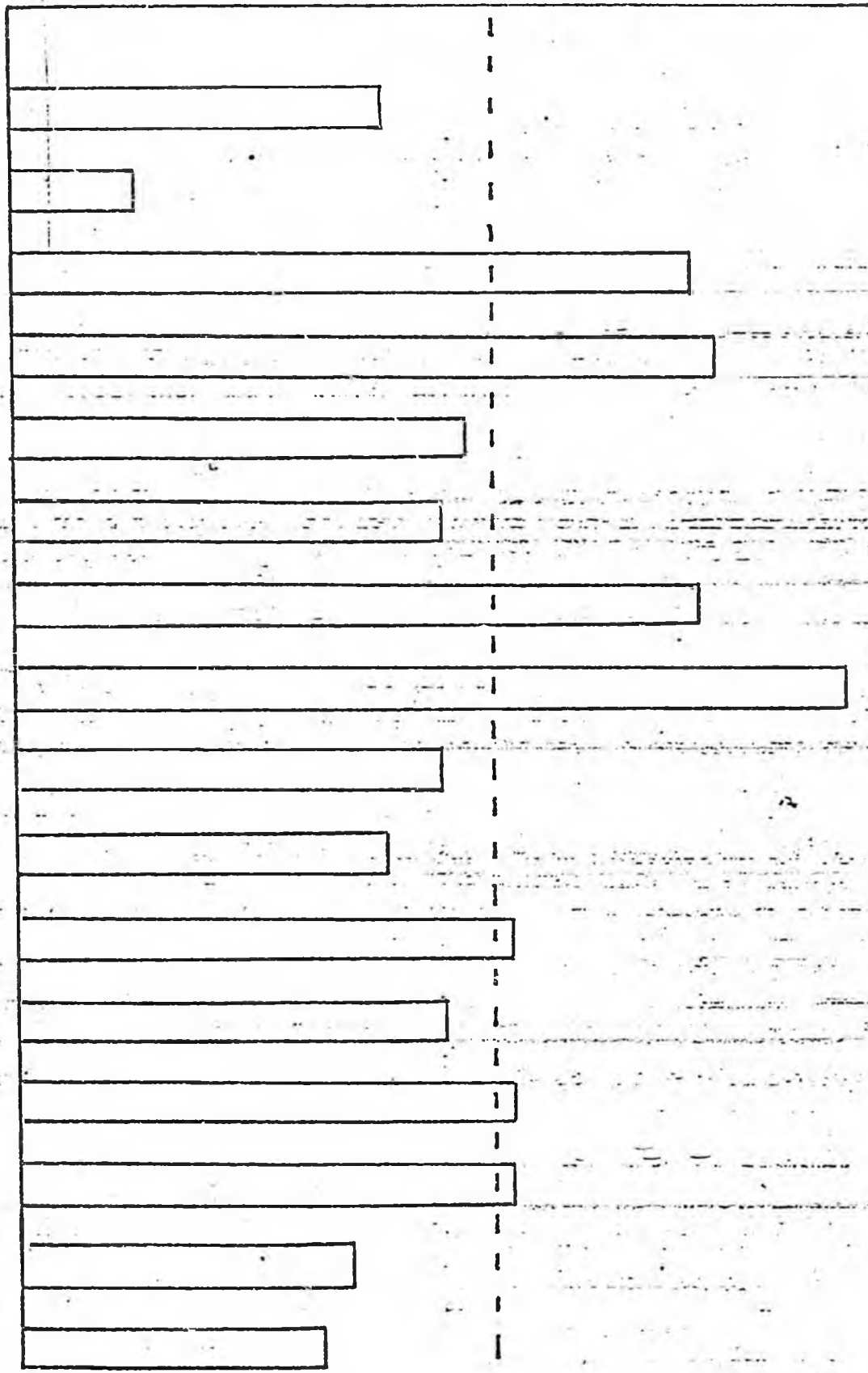
North Dakota

Oregon

Rhode Island

South Dakota

Wisconsin



Including All U.S. & Municipal Bond Interest
By Rate of Tax

Average 7.8%

Attachment ②



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

4/26/89
Date

Committee Report

SENATE

Ref: 3/30/72

3/30/72

Date

Mr. President:

The Committee on Finance has had SCSHE 57 am S
(business license tax on banks)
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- (other) recommends it be replaced with SCSHE 57

(Finance) and reports it back with individual recommendations.
MEMBERS SIGNING THE MAJORITY REPORT:

Will Key Do NOT PASS

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: NO Recommendation
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

CHAIRMAN

Original sponsor: Rules Committee by
request of the Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to lending institutions; and providing
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.70.030(b) is amended to read:

10 (b) The license fee for each national bank and state bank, trust
11 company and savings and loan association is six [TWO] per cent of its
12 net income. Net income means the taxable income of each such taxpayer
13 before net operating loss deduction and special deductions, computed
14 as required under the Internal Revenue Code of the United States and
15 includes all other income including income from federal, state or
16 municipal obligation but not including income from any obligation of
17 the state, political subdivisions of the state, and public corporations
18 of the state. Each of these taxpayers shall submit a copy of the
19 income tax return which it files with the United States Collector of
20 Internal Revenue and shall notify the commissioner of revenue in writing
21 of any alteration or modification of the federal income tax return and
22 of a recomputation of tax or determination of deficiency. The tax-
23 payer who files his federal return on a fiscal year basis shall in
24 addition submit a statement setting out all information which would be
25 required and reported in a federal income tax return prepared for the
26 calendar year. This statement shall be in the same form as a federal
27 income tax return and the net income shall be computed as required
28 under the Internal Revenue Code. The statement shall be submitted to
29 the commissioner of revenue before the sixteenth day of April after

1 the close of the calendar year.

2 * Sec. 2. AS 45.45.010(b) is repealed and re-enacted to read:

3 (b) During any calendar quarter no interest may be charged by
4 express agreement of the parties in a loan, contract or commitment
5 which is more than eight per cent a year, except that the eight per
6 cent a year rate may be exceeded under the following circumstances:

7 (1) in a loan not involving real estate or in a loan, con-
8 tract or commitment covering a one- to four-family dwelling the inter-
9 est rate may not exceed four percentage points above the annual rate
0 charged member banks for advances by the 12th Federal Reserve District
1 that prevailed on the first day of the month preceding the commencement
2 of that calendar quarter;

3 (2) in a loan, contract or commitment secured by a real
4 estate mortgage or trust deed, not covered in (1) of this subsection,
5 the interest rate may not exceed four and one-half percentage points
6 above the annual rate charged member banks for advances by the 12th
7 Federal Reserve District that prevailed on the first day of the month
8 preceding the commencement of that calendar quarter.

17 * Sec. 3. AS 45.45.010 is amended by adding new subsections to read:

18 (d) Notice of the annual rate charged member banks for advances
19 by the 12th Federal Reserve District prevailing on the first day of
20 the month preceding the commencement of each calendar quarter required
21 for the maximum interest rate computation under (b) of this section
22 shall be provided by the Department of Commerce.
23

24 (e) If the limitations on interest rates provided for in this
25 section are inconsistent with the provisions of any other statute
26 covering maximum service charges or discount rates, then the provisions
27 of such other statute shall prevail.
28

29 * Sec. 4. AS 45.45.010(c) is repealed.

1 * Sec. 5. Section 1 is retroactive to January 1, 1973.

2 * Sec. 6. This Act takes effect on the day after its passage and
3 approval or on the day it becomes law without approval.

Original sponsor: Rules Committee
by request of the Governor

Offered: 2/27/73
Referred: Rules

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

SENATE CS FOR HOUSE BILL NO. 57

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

EIGHTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Alaska business license tax
7 on national banks and state banks, trust companies
8 and savings and loan associations; and providing for
9 an effective date."

10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11

* Section 1. AS 43.70.030(b) is amended to read:

12

(b) The license fee for each national bank and state bank, trust

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company and savings and loan association is six [TWO] per cent of

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its net income. Net income means the taxable income of each such

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taxpayer before net operating loss deduction and special deductions,

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computed as required under the Internal Revenue Code of the United

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States and includes all other income including income from federal,

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state or municipal obligation. Each of these taxpayers shall submit

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a copy of the income tax return which it files with the United States

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Collector of Internal Revenue and shall notify the commissioner of

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revenue in writing of any alteration or modification of the federal

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income tax return and of a recomputation of tax or determination of

23

deficiency. The taxpayer who files his federal return on a fiscal

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year basis shall in addition submit a statement setting out all

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information which would be required and reported in a federal income

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tax return prepared for the calendar year. This statement shall be

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in the same form as a federal income tax return and the net income

28

shall be computed as required under the Internal Revenue Code. The

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statement shall be submitted to the commissioner of revenue before

1 the sixteenth day of April after the close of the calendar year.

2 * Sec. 2. This Act is retroactive to January 1, 1973.

3 * Sec. 3. This Act takes effect on the day after its passage and approval
4 or on the day it becomes law without approval.

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Introduced: 1/12/73
Referred: Commerce and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska business license tax
7 on national banks and state banks, trust companies
8 and savings and loan associations; and providing for
9 an effective date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 43.70.030(b) is amended to read:

12 (b) The license fee for each national bank and state bank, trust
13 company and savings and loan association is eight [TWO] per cent of
14 its net income. Net income means the taxable income of each such
15 taxpayer before net operating loss deduction and special deductions,
16 computed as required under the Internal Revenue Code of the United
17 States and includes all other income including income from federal,
18 state or municipal obligation. Each of these taxpayers shall submit
19 a copy of the income tax return which it files with the United States
20 Collector of Internal Revenue and shall notify the commissioner of
21 revenue in writing of any alteration or modification of the federal
22 income tax return and of a recomputation of tax or determination of
23 deficiency. The taxpayer who files his federal return on a fiscal
24 year basis shall in addition submit a statement setting out all
25 information which would be required and reported in a federal income
26 tax return prepared for the calendar year. This statement shall be
27 in the same form as a federal income tax return and the net income
28 shall be computed as required under the Internal Revenue Code. The
29 statement shall be submitted to the commissioner of revenue before

1 the sixteenth day of April after the close of the calendar year.

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4 approval or on the day it becomes law without approval.

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Introduced: 1/12/73
Referred: Commerce and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 57

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska business license tax
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19 a copy of the income tax return which it files with the United States
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21 revenue in writing of any alteration or modification of the federal
22 income tax return and of a recomputation of tax or determination of
23 deficiency. The taxpayer who files his federal return on a fiscal
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25 information which would be required and reported in a federal income
26 tax return prepared for the calendar year. This statement shall be
27 in the same form as a federal income tax return and the net income
28 shall be computed as required under the Internal Revenue Code. The
29 statement shall be submitted to the commissioner of revenue before

1 the sixteenth day of April after the close of the calendar year.

2 * Sec. 2. This Act is retroactive to January 1, 1973.

3 * Sec. 3. This Act takes effect on the day after its passage and
4 approval or on the day it becomes law without approval.

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UNFINISHED BUSINESS

SCS Senator Groh moved reconsideration of SENATE COMMITTEE
HB SUBSTITUTE FOR HOUSE BILL NO. 57 am S.
57
am S

HOUSE BILLS IN THIRD READING

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 57 am S
(business license tax on banks) was considered in third
reading.

Senator Groh moved and asked unanimous consent that
SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 57 am S,
be referred back to the Finance Committee. Without
objection, it was so ordered.

CSSB Senator Hohman moved and asked unanimous consent that
150 the reconsideration of COMMITTEE SUBSTITUTE FOR SENATE
am BILL NO. 150 am (annexation of military reservations) and
COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 151 (Rules)
CSSB (local government boundaries) be held over one legislative
151 day. Senator Hohman then withdrew his motion.
(Rules)

Senator Thomas moved and asked unanimous consent that the
Senate recess until 11:00 a.m. today, and then reconvene
in joint session in the House chamber to hear an address
by Chief Justice Jay A. Rabinowitz. There being no
objection, the Senate recessed at 10:53 a.m.

AFTER RECESSJOINT SESSION IN THE HOUSE

The Speaker of the House called the joint session to order
at 11:02 a.m. and deferred to the President of Senate.

Senator Thomas moved and asked unanimous consent that the
roll call of the Senate be waived and that the record
reflect all members present. There being no objection, it
was so ordered.

HOUSE JOINT RESOLUTION NO. 24 was read the third time.

HJR
24

The question being: "Shall HOUSE JOINT RESOLUTION NO. 24 (federal cutbacks in federal research funds) pass the Senate?" The roll was taken with the following result:

Yeas:	19	Butrovich, Croft, Groh, Harris, Hensley, Hohman, Kerttula, Lewis, Meland, K. Miller, T. Miller, Palmer, Poland, Rader, Ray, Rettig, Sackett, Thomas, Ziegler
Nays:	0	
Excused:	1	Young

And so, HOUSE JOINT RESOLUTION NO. 24 passed the Senate, was signed by the President and Secretary, and returned to the House.

SENATE BILLS IN THIRD READING

SENATE BILL NO. 182 which had been moved to the bottom of the calendar was again under consideration.

SB
182

The question being: "Shall SENATE BILL NO. 182 (fish and game resources) pass the Senate?" The roll was taken with the following result:

Yeas:	11	Croft, Groh, Hensley, Hohman, Kerttula, Palmer, Poland, Rader, Rettig, Sackett, Thomas
Nays:	8	Butrovich, Harris, Lewis, Meland, K. Miller, T. Miller, Ray, Ziegler
Excused:	1	Young

Senator Rettig changed his nay vote to yea.

And so, SENATE BILL NO. 182 passed the Senate.

Senator Lewis gave notice of reconsideration of his vote on the passage of SENATE BILL NO. 182. The Secretary was requested to make note of the reconsideration.

EST. NET STATE TAXABLE INCOME OF BANKS	TAX AT PRESENT RATE OF 2%	TAX AT PROPOSED RATE OF 4%	LET INCREASE TO GENERAL FUND
F/y 73 10,000,000	200,000	400,000	200,000
F/y 74 11,000,000	220,000	440,000	220,000
F/y 75 12,000,000	240,000	480,000	240,000
F/y 76 13,000,000	260,000	520,000	260,000
F/y 77 14,000,000	280,000	560,000	280,000
F/y 78 15,000,000	300,000	600,000	300,000

STATE
of ALASKA

MEMORANDUM

*Presented by Larry Carroll,
Dept of Revenue, 2/26/73*

TO: [R. D. Stevenson
Acting Commissioner
Department of Revenue

DATE : January 18, 1973

FROM: L. P. Carroll, Chief
Miscellaneous Tax Section

SUBJECT: House Bill 57 (As Amended by
House Commerce Committee)
Increasing the Alaska Bank Tax

In response to your request for research on House Bill 57 (As Amended by House Commerce Committee), raising the tax on banks and other financial institutions from 2% to 8% of net income, the following is submitted for transmitting as may be required.

Effect on Treasury:

	F/Y 73	F/Y 74	F/Y 75	F/Y 76	F/Y 77	F/Y 78
Estimate of Net State Taxable Income of Banks	10,000,000	11,000,000	12,000,000	13,000,000	14,000,000	15,000,000
Tax at Present Rate of 2%	200,000	220,000	240,000	260,000	280,000	300,000
Tax at Proposed Rate of 8%	800,000	880,000	960,000	1,040,000	1,120,000	1,200,000
Net Increase to General Fund	600,000	660,000	720,000	780,000	840,000	900,000

Problems of Administration: None

General Comments: Attachments 1 and 2 support the following conclusions:

- (Attachment 1) 1. Of the 50 States, 28 States use an excise or income tax structure with an average rate of 6.91%. 22 States utilize a method other than excise/income.
- (Attachment 2) 2. Of these 28 States, 18 are franchise excise tax systems, 16 of which include interest of U. S. and municipal bond interest in the measure of net taxable income (including Alaska) and have an average tax rate of 7.8%. I attach a graph illustrating the tax rate of these 16 States. You will note a high of 13.7% in Minnesota to a low of 2% in Alaska.

In summary, Alaska's present bank tax system is the method used by most excise/franchise tax States. However, the 2% tax we impose is well below any other State, or indeed, the average of all other states.

MEMO

R. D. Stevenson

January 18, 1973

Page 2

The Alaska bank license tax is a deductible item on the U. S. Corporation Income Tax Return for banks as taxpayers. What this in effect means is that Federal taxes are lessened by the amount of the Alaska tax times the applicable Federal Corporation Tax Rate. For banks having a taxable net income of \$25,000.00 or more, the Federal tax rate is 48% of net income in excess of \$25,000.00. Thus, for a bank paying \$20,000.00 in Alaska bank license taxes the savings on the Federal Corporation Return would be \$9,600.00, or almost half of the Alaska bank license tax paid. The Federal Corporation Tax Rate for banks netting less than \$25,000.00 is 26%.

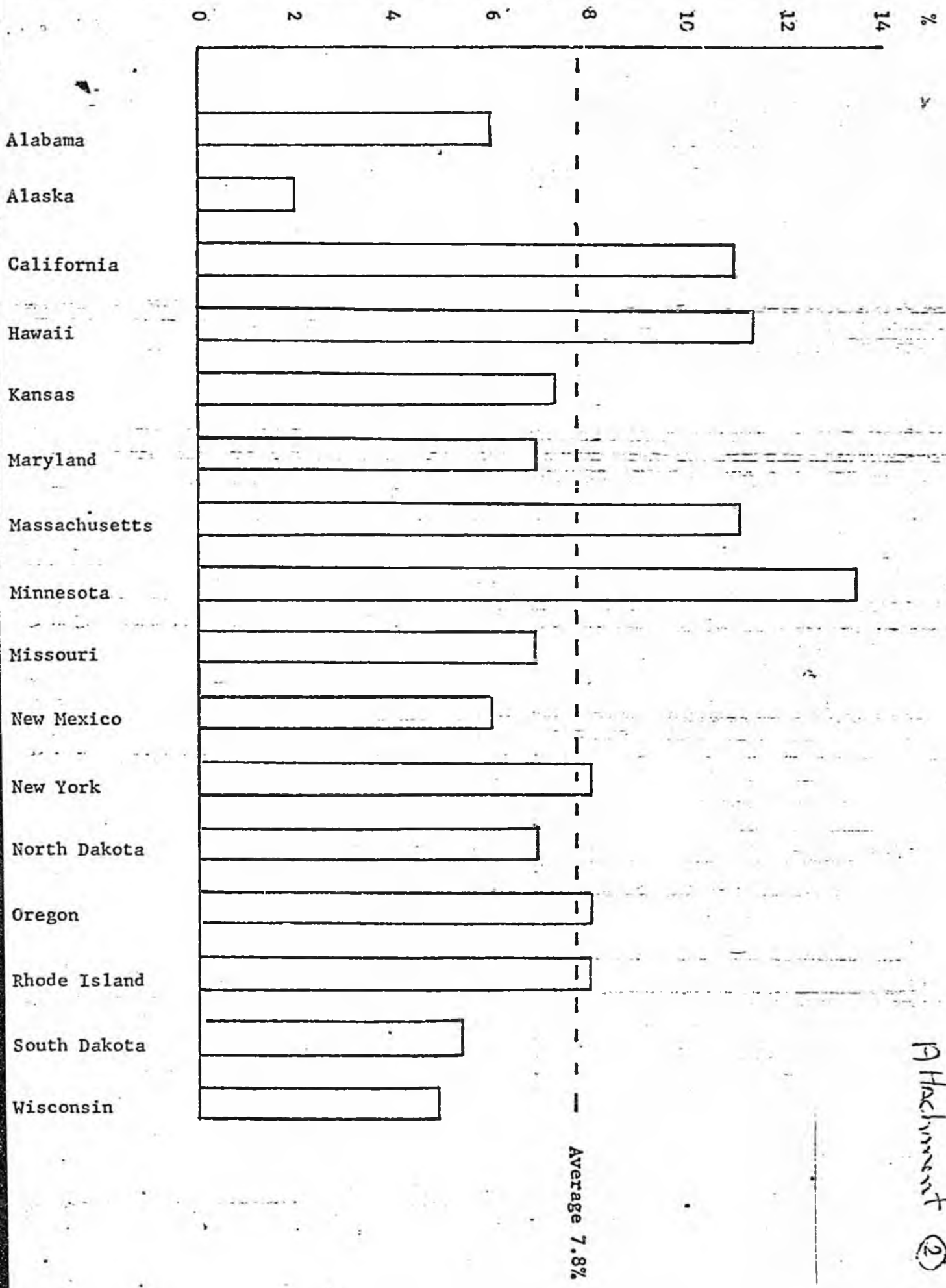
Historical Note:

The tax on banks was established in 1950 at 2% of taxable income. At that time, individuals and all other corporations were paying 10% of the then effective Federal Income Tax Rates.

Since that time, individual tax has risen to 16% of the 1963 Federal Tax Rate and corporate taxes have risen to 18% of the 1963 Federal Tax Rates. Alaska banks continue to pay the rate imposed in 1950 at 2%, which may well account for the evident lag behind the bank taxes now imposed by our sister states.

LPC:fd
Attachments

States Utilizing Franchise-Excise
Including all U.S. & Municipal Bond Interest
By Rate of Tax



19 Attachment ②

EXHIBIT (A)

Comparison of a Non Financial Institution Corporation with a Financial Institution with the Same Taxable Income Under Present Rates.

	<u>Non Financial Corporation</u>	<u>Bank Corporation</u>
Gross Income	20,000,000	20,000,000
Less Non Taxable State & Local Bond Interest	-0-	(2,100,000)
<hr/>		
Adjusted Gross Income	20,000,000	17,900,000
Less Operating Expenses and Depreciation	16,000,000	16,000,000
<hr/>		
Taxable Income	4,000,000	1,900,000
Add State and Local Bond Int on Banks Net Taxable Income	-0-	2,100,000
	<u>4,000,000</u>	<u>4,000,000</u>
Alaska Corporation Tax	\$ 374,400 = 9.36% Effective Alaska Corp. Tax	-0- = Not Subject to Alaska Corp. Tax
Alaska Business License Tax	\$ 400 Tax on First \$100,000 of Gross Receipts 49,750 Tax on Excess of \$100,000 Gross Receipts	\$ 80,000 = 2% of Net Income
	<u>\$ 50,150</u>	<hr/>
Total Tax	<u>\$ 424,550</u>	<u>\$ 80,000</u>
Expressed as a % of Net Taxable	<u>10.61%</u>	<u>2%</u>

EXHIBIT (B)

Effect of Alaska Bank License Tax
on Federal Corporation Tax of a
Financial Corporation.

We will utilize the same figures used in Exhibit (A) and show the effect of the Alaska Tax at the present 2% rate and the proposed 8% rate.

Federal Taxable Income	\$1,900,000	\$1,900,000
Less Alaska Tax Paid	<u>80,000 = 2% Rate</u>	<u>320,000 = 8% Rate</u>
Adjusted Federal Taxable Income	\$1,820,000	\$1,580,000
Federal Tax 26% on First \$25,000	\$ 6,500	\$ 6,500
48% on Excess of \$25,000	<u>\$ 861,600</u>	<u>\$ 746,400</u>
Total Federal Corporation Tax	<u>\$ 868,100</u>	<u>\$ 752,900</u>

Thus it may be shown that while Alaska Bank License Tax increased by \$240,000, there is a savings on the Federal Corporate Income Tax Return of \$115,200 or 48% of the Alaska tax increase. The net cost to financial institutions being \$124,800, not \$240,000.

CHAPTER 18.

EXCISE TAX ON FINANCIAL INSTITUTIONS.

Sec.	Sec.
425. Definitions.	429. Payment and distribution of tax.
426. Returns.	430. Refunds.
427. Levy and review.	431. Exemptions and credits for other taxes.
428. When tax due; penalty for delinquency; extension of time.	

§ 425. Definitions.—When used in this schedule, the following terms shall have the following meanings: (a) "Financial institution" shall mean and include any person, firm, corporation, and any legal entity whatever doing business in this state as a national banking association, bank, banking association, trust company, industrial or other loan company, building and loan association and shall likewise include any other institution or person employing moneyed capital coming into competition with the business of national banks, and shall apply to such person or institution regardless of what business form and whether or not incorporated, whether of issue or not, and by whatsoever authority existing. "Financial institution" shall not mean or include individual citizens and fiduciaries acting in a representative capacity for individual citizens, not engaged in a banking, loan, investment or similar business, but merely making personal investments of personal or fiduciary funds in bonds, notes, or other evidences of indebtedness and not made in competition with the business of national banks, nor shall such term apply to insurance companies or insurance associations making merely investments of reserves in bonds, notes, or other evidences of indebtedness and not made in competition with the business of national banks. (b) "Net income" shall mean and include the net income for the taxable year, as in this title defined, arising from the business the privilege to engage in which is hereby taxed, computed by deducting from the gross income arising from such business, without any exclusions from or credit to such gross income, the total amount of the following deductions: (1) All the ordinary and necessary expenses paid or incurred during the year the income is received which is made the basis of the tax in carrying on the business, the privilege to engage in which is hereby taxed, including a reasonable allowance for salaries or other compensation for personal service actually rendered; also all contributions paid by a financial institution as employer to or under a stock bonus, pension, profit-sharing or annuity plan, or if compensation is paid or accrued on account of any employee of any financial institution under the plan deferring the receipt of such compensation such contributions or compensation shall be deductible, but only to the following extent: (A) In the taxable year when paid, if the contributions are paid into a pension trust, and if such taxable year ends within or with a taxable year of the trust for which the trust is exempt under section 392 of Title 51 in an amount determined as follows: (i) An amount net in excess of 5 per centum of the compensation otherwise paid or accrued during the taxable year to all the employees under the trust, but such amount may be reduced for future years if found by the commissioner of revenue upon periodical examinations at not less than five-year intervals to be more than the amount reasonably necessary to provide the remaining unfunded cost of past and current service credits of all employees under the plan, plus (ii) any excess over the amount allowable

ARIZONA

that it is paid or credited or to be distributed out of income from property, it shall be considered a gift, bequest, devise, or inheritance of income from property.

(10) Tax exempt interest. Gross income also does not include interest upon the obligations of this state or any political subdivision thereof, or the obligations of the United States or its possessions.

(11) Amounts received for injury or sickness. Except in the case of amounts attributable to, and not in excess of, deductions allowed under § 43-123(x) (1), (2) and (3), gross income also does not include amounts received through accident or health insurance or under workmen's compensation acts as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness. Gross income does not include amounts received as a pension, annuity, medical retirement or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country.

(12) Minister's compensation. Gross income also does not include the rental value of a dwelling house and appurtenances thereof furnished to a minister of a religion as part of his compensation.

(13) Compensation of employees of foreign government. Gross income also does not include wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or non-diplomatic representative) received as compensation for official services to that country:

(A) If the employee is not a citizen of the United States;

(B) If the services are of a character similar to those performed by employees of the United States in foreign countries; and

(C) If the foreign country and political subdivision thereof do not tax the wages, fees, or salaries of employees of the United States performing similar services in that country.

(14) Discharge of indebtedness evidenced by security. Gross income does not include the amount of any income of a corporation attributable to the discharge, within the income year, of any indebtedness of the taxpayer, or for which the taxpayer is liable, evidenced by a security, as hereinafter defined, if the taxpayer makes and files at the time of filing the return, in such manner as the tax commission by regulation prescribes, its consent to the regulations prescribed under § 43-153(b) (3). In such case the amount of any income of the taxpayer attributable to any unamortized premium, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount, computed as of the first day of the income year in which such discharge occurred, with respect to such indebtedness shall not be allowed as a deduction. "Security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation.

(15) Discharge of indebtedness—railroad corporation—Sec. 77m, Bankruptcy Act. Gross income does not include the amount of any income attributable to the discharge, within the income year, of any indebtedness of a railroad corporation, as defined in section 77m of the national bankruptcy act, as amended, to the extent that such income is deemed to have been realized by reason of a modification in or cancellation in whole or in part of such indebtedness pursuant to an order of a court in a receivership proceeding or in a proceeding under section 77 of the national bankruptcy act, as amended. In such case the amount of any income of the taxpayer attributable to any unamortized premium, computed as of the first day of the income year in which such discharge occurred, with

respect to such indebtedness the amount of the deduction computed as of the first day occurred, with respect to deduction. Paragraph (14) of indebtedness to which

(16) Lessee improvement other than rent, derived by of a lease, representing the ings erected or other impre

(17) Recovery of bad income also does not include the taxable year of a bad extent of the amount of the tax, or amount.

(18) Bad debt. As used on account of worthlessness was allowed for a prior tax

(19) Prior tax. As used account of which a deduct year.

(20) Delinquency amount" means an amount tion or credit was allowed able to failure to file a return the time required by the law to file a return with respect

(21) Recovery exclusion. sion", with respect to a bad the amount, determined in tax commission, of the bad debt, prior tax, or reduction of the taxpayer's excludible in previous tax amount under this paragraph

(22) Compensation for

(A) Gross income also allowances, and other com services as a member of the any auxiliary branch there per annum in the aggregate

(B) Gross income also taxable year as mustering leave pay and bonds, and state legislation with respect the United States.

(23) Option price—empic not include any amount, of bank or corporation, or its consideration for the issue corporation, as a result of stock option" as defined in

(24) Constitutionally exclude income which this substitution or laws of the Union of this state.

State of Arizona
Senate
Seventy-ninth Legislature
Second Regular Session

COMPILED AND ISSUED BY
WESLEY BOLIN
SECRETARY OF STATE
for use until Session Laws are printed

CHAPTER 170
SENATE BILL 84

AN ACT

ARTICLE 1. GENERAL PROVISIONS

42-901. Method of taxing national banking associations

National banking associations shall be taxed on their net income under title 43 and shall in addition be subject to all other taxes authorized by section 5219, United States Revised Statutes as amended, levied or imposed by the state or any political subdivision thereof. The commission shall determine the allowable cost factor attributable to exempt income from United States government obligations and municipal bonds, and may by rules and regulations prescribe any information necessary to make such determination.

42-902. Method of taxing banks, investment companies
and savings and loan associations

law applicable to the first used by this section shall be provided in Chapter 22. Any applicable to the first calendar shall be immediately due and the Franchise Tax Board.

Act June 6, 1955. Adopted without change and "Chapter 22" is substituted for

operative July 1, 1951, renumbered there is a change in accounting and "(1)" and "(2)" for "(a)". for owner."

INCOME

4321.

tions

gross income" under Franchise Tax

under Section 24348.

otherwise provided in this whatever source derived, in items:

ing fees, commissions, and sim-

roperty;

lowment contracts;

ness;

gross income (determined in 0) (commencing with Section

state or trust (determined in 0) (commencing with Section

Act June 6, 1955. Based on former 1951, p. 1171, operative July 1, 1951. include other technical changes. Stats. references to Part 10 to subsections

a corporation transferred all of its tion, reserving a right to the profits purchase price and constituted income d. of Equal., June 24, 1960.

Patronage dividends.—By defining gross income in substantially the same terms as found in Federal law, the Legislature was held to have adopted the federal rule with regard to the exclusion of patronage dividends from gross income. *Appeal of Certified Grocers, of California, Ltd.*, Cal. St. Bd. of Equal., Sept. 20, 1962; *Appeal of United Grocers, Ltd.*, Cal. St. Bd. of Equal., Feb. 26, 1963; *Appeal of Alfred M. Lewis, Inc.*, Cal. St. Bd. of Equal., April 17, 1963. But see Section 24406 (Other cooperative associations).

Beneficial owner taxable.—The income from a "reserved estate" in oil-bearing property was properly included in the gross income of a subsidiary of the oil company purchasing the oil-bearing property, where the subsidiary received the real benefit of the income from that "reserved estate" since that income was used to pay off a loan on the property and ultimately to make the subsidiary the sole legal owner of the property. *Appeals of Coalina Oil Corp., et al.*; Cal. St. Bd. of Equal., June 28, 1965.

Income from joint venture.—Amounts received by the taxpayer, a motion picture producer, were not funds earmarked for any specific purpose but represented compensation to the taxpayer for the services and property which it contributed to the venture, and were thus includable in the taxpayer's income in the year received. *Appeal of Andrew L. Stone, Inc.*, Cal. St. Bd. of Equal., Aug. 7, 1967.

Constructive receipt of income.—The taxpayer, a producer of motion pictures, constructively received income under a joint venture arrangement with a motion picture distributing company, when the latter credited a percentage of the net receipts from films produced by the taxpayer against advances which had been made by the distributing company to finance the taxpayer's share of the production costs. *Appeal of Andrew L. Stone, Inc.*, Cal. St. Bd. of Equal., Aug. 7, 1967.

A rice grower constructively received advances due under his marketing agreement with a rice growers' association in the year in which he delivered his rice crop to the association, notwithstanding the association's practice of deferring payment of such advances until the following year, at the grower's request. *Appeal of Lumbury Enterprises, Inc.*, Cal. St. Bd. of Equal., Jan. 3, 1963.

Sale or loan.—Advances received by a rice grower from a rice growers' association constituted income from a sale rather than a loan, under the terms of the agreement between the grower and the association. *Appeal of Lumbury Enterprises, Inc., supra.*

Membership fees.—Membership fees received by the taxpayer, a nonprofit merchandising corporation, constituted nontaxable payments in exchange for its stock rather than being taxable income. *Federal Employees Dist. Co. v. Franchise Tax Board*, 260 Cal. App. 2d 927; *Appeal of Affiliated Government Employees' Distributing Co.*, Cal. St. Bd. of Equal., Sept. 12, 1963.

Dividend income.—Amounts accrued or paid to a corporation by its subsidiaries, in excess of their pro rata share of the consolidated income tax liability of the group, constitute dividend income to the parent corporation in the year of accrual or payment. *Appeal of Chris-Craft Industries, Inc.*, Cal. St. Bd. of Equal., Mar. 26, 1963.

Dividend or loan—"substance v. form".—The substance of a refinancing transaction governed over the form which it took, i.e., a loan to the taxpayer's wholly owned subsidiary and a simultaneous declaration of a dividend and transfer of funds by the subsidiary to the taxpayer, where that final form had been dictated by the lenders and it was clear that the taxpayer's sole purpose throughout was to borrow the money for its own refinancing purposes, the various steps of the transaction being part of that integrated plan. *Appeal of Chris-Craft Industries, Inc.*, Cal. St. Bd. of Equal., Mar. 26, 1963.

24272. Bond interest included in "gross income" under Franchise Tax Law. For the purposes of the tax imposed under Chapter 2, "gross income" includes all interest received from federal, state, municipal or other bonds.

History.—Added by Stats. 1955, p. 1573 in effect June 6, 1955. Based on former Section 23351. In former Section 23351, Stats. 1951, p. 1171, operative July 1, 1951, substituted "under" for "by" and deleted references to other kinds of income.

24273. Commodity Credit loans. (a) Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income and shall be included in gross income for the income year in which received.

(b) If a taxpayer exercises the election provided for in subsection (a) for any income year, then the method of computing income so adopted shall be adhered to with respect to all subsequent income years unless with the approval of the Franchise Tax Board a change to a different method is authorized.

History.—Added by Stats. 1955, p. 1578, in effect June 6, 1955. Adopted without substantive change from former Sections 23354 and 23354.1, which were added by Stats. 1951, p. 1172, operative July 1, 1951. Stats. 1953, p. 822, in effect April 8, 1953, changed "taxable" to "income."

ing and loan association, every industrial loan company and financial corporation, located or doing business in the State, shall annually, as of January 1, pay a franchise tax measured as, and at the rate, provided in section 241-4. [Comp. ¶ 11-810.]

[[93-265]]

Sec. 241-4. Measure and rate of tax.—

(a) The measure of the tax imposed by this chapter is the entire net income from all sources for the calendar year preceding January 1, or in the case of a taxpayer operating on a fiscal year basis, for the fiscal year in which January 1 occurs. The tax imposed by this chapter is hereby fixed, at 11.7 per cent thereof. [Comp. ¶ 11-815.]

[[93-267]]

(b) The "entire net income from all sources" shall be determined in the same manner as the "taxable income" of a corporation, as provided by chapter 235, with the following changes and adjustments:

(1) There is included in gross income interest received upon the obligations of the United States or its possessions, or upon securities issued under the authority of an Act of Congress, or upon state, territorial, municipal, county, or other bonds or securities whether or not the income from such obligations, bonds, or securities, is tax free. Section 235-7(a)(1), (6), and (7) do not apply.

(2) Section 235-7(c), (d), and (e) do not apply.

(3) In lieu of section 235-4, it is provided that there shall be excluded the gross income from property owned, trade or business carried on, and other sources outside the State.

(4) Section 235-5 does not apply. The income excluded pursuant to paragraph (3) shall be determined by an allocation and separate accounting. Losses from property owned outside the State and from other sources outside the State shall not be deducted. Reserves shall be allocated to the State by the application of a fraction, the numerator of which consists of the gross income included in determining the "entire net income from all sources" pursuant to this chapter and the denominator of which consists in the gross income similarly ascertained but without regard to whether from sources within or without the State.

(5) Deductions connected with income which by this chapter is required to be included in the computation of net income

¶ 93-266 § 241-4

shall be allowed, but deductions connected with income which by this chapter is not to be included in the computation of net income shall not be allowed. Section 235-7(c)(1) does not apply.

(6) One half of such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, is deductible in the determination of net income.

(7) Section 166 of the Internal Revenue Code does not apply, except the provisions as to the basis for determining the amount of the deduction for a bad debt. Section 593 of the Internal Revenue Code does not apply. In lieu of the cited sections of the Internal Revenue Code, debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or in the discretion of the department of taxation a reasonable addition to a reserve for bad debts; provided, that when satisfied that a debt is recoverable only in part, the department may allow such debt to be charged off in part.

(8) Federal income taxes upon income derived or received from sources in the State may be deducted.

(9) In the case of any life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined by this chapter, sections 802, 804, and 818 of the Internal Revenue Code do not apply. The total of the deductions allowed by sections 805 and 812 of the Internal Revenue Code shall not exceed the amount of the required interest, as defined by section 805, subsections (c) and (d), of the Internal Revenue Code. [Comp. ¶ 11-815.]

[[93-268]]

Sec. 241-5. Returns; payment of tax.—

Returns made on the basis of the calendar year shall be made and filed, and the tax imposed by this chapter shall be paid, on or before April 20 following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed, and in such case the tax imposed by this chapter shall be paid, on or before the twentieth day of the fourth month following the close of the fiscal year.

A taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the twentieth day of the second month, the

third installment on the fifth month and the fourth installment on the twentieth day after such date. [C.]

[59]

Sec. 241-6. Chapter 241. All of the provisions consistent with this chapter shall be appropriately amended, circumstances, in this chapter, in addition to the generality of sections 235-91, 235-98, 235-99,

[60]

Sec. 242-1. F. H. mortgage loans.—Any or notwithstanding, installment of the Regular Ninth Legislature, mortgage loans which years from June 3, anteed or insured by Administration, lender, corporate or loans in the State shall income for the purpose of tax, license fee, or c

Handwritten note in a box: "not wash" with a checkmark.

Judicial Council Bulletin References:

Mentioned in discussing tax exemptions, Peter F. Caldwell, 1953 J. C. D. 69, 75.

CASE ANNOTATIONS

1. Cited in holding mortgage-registration act of 1925 constitutional. Citizens Bank v. State Tax Commission, 132 K. 5, 7, 294 P. 940.

79-1104. Application of 79-1103 to 79-1105. The provisions of this act shall apply to returns of property for taxation for the year 1930 and thereafter. [L. 1930, ch. 16, § 3; March 11.]

Reviser's Note:

Transferred from 79-1101b.

CASE ANNOTATIONS

1. Cited in holding mortgage-registration act of 1925 constitutional. Citizens Bank v. State Tax Commission, 132 K. 5, 7, 294 P. 940.

79-1105. Invalidity of 79-1103 to 79-1105. If any section, subsection, paragraph or provision of this act shall be held to be invalid by any court for any reason, it shall be presumed that this act would have been passed by the legislature without such invalid section, subsection, paragraph or provision, and such finding or construction shall not in any way affect the remainder of this act. [L. 1930, ch. 16, § 4; March 11.]

Research and Practice Aids:

Statutes—31(8).
C. J. S. Statutes §§ 103, 104, 109.

79-1106. Taxation of national banking associations, banks, trust companies and savings and loan associations; purpose of act. It is hereby declared to be the intention of the legislature to levy a tax on national banking associations, banks, trust companies, and savings and loan associations, which tax shall be in lieu of ad valorem taxes which might otherwise be imposed upon the intangible assets of such national banking associations, banks, trust companies, and savings and loan associations. [L. 1933, ch. 463, § 1; Jan. 1, 1934.]

Research and Practice Aids:

Taxation—126, 133.
Hatcher's Digest, Taxes §§ 44, 45, 107.
C. J. S. Taxation §§ 143, 144, 157, 153.

79-1107. National banking associations; tax imposed; rate. Every national banking association located or doing business within the state shall annually pay to the state a tax according to or measured by its net income for the next preceding calendar year or fiscal year ending in the next preceding year to be computed as provided in this act at the

rate of five percent (5%). The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock or the intangible assets of national banking associations. The state of Kansas hereby adopts the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the Revised Statutes of the United States (12 U.S.C.A. 545), relating to the manner and place of taxing national banking associations located within its limits. [L. 1933, ch. 463, § 2; L. 1933, ch. 142, § 1; July 1.]

Source or prior law: 79-1101, 79-1101c.

Research and Practice Aids:

Taxation—930, 1061.
Hatcher's Digest, Taxes §§ 44, 45, 107.
C. J. S. Taxation §§ 103, 1101.

79-1108. Same; banks, trust companies, and savings and loan associations; tax imposed; rate. Every bank, trust company, and savings and loan association located or doing business within the state shall annually pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding calendar year or fiscal year ending in the next preceding year to be computed as provided in this act at the rate of five percent (5%). The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivision thereof upon shares of capital stock or other intangible assets of banks, trust companies, and savings and loan associations. [L. 1933, ch. 463, § 3; L. 1933, ch. 142, § 2; July 1.]

Source or prior law: 79-325a, 79-1101, 79-1101c.

Research and Practice Aids:

Taxation—930, 1061.
Hatcher's Digest, Taxes §§ 44, 45, 107.
C. J. S. Taxation §§ 103, 1101.

79-1108a. Same; taxpayer's election of fiscal year in lieu of calendar year. Election by a tax payer under this act of a fiscal year in lieu of a calendar year shall be made only in accordance with rules and regulations relating thereto which shall be adopted by the state director of revenue. [L. 1933, ch. 142, § 3; July 1.]

79-1109. Taxation of national banking associations, banks, trust companies and savings and loan associations; "net income" defined; deductions; credits. (a) As used in this act "net income" shall mean the Kansas taxable income of corporations as defined in section 31 of House bill No. 1130 of the 1937

1970

1970

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[L. 1933, ch.
ecial Sessio-
ch. 56, § 1; L.

session of the legislature [79-32,138] plus income received from government securities and municipal securities to the extent of deductions arriving at Kansas taxable income of a corporation less interest paid on time deposits or borrowed money and dividends paid on withdrawable shares of savings and loan associations to the extent not deducted in arriving at Kansas taxable income of a corporation.

(b) Savings and loan associations shall be showed as a deduction from net income, as defined in subsection (a) hereof, a reserve established for the sole purpose of meeting or absorbing losses, in the amount of five percent (5%) of such net income determined without benefit of such deduction: *Provided*, That no further deduction shall be allowed for losses when actually sustained and charged against such reserve, unless such reserve shall have been fully absorbed thereby; or, in the alternative, a reasonable addition to a reserve for losses based on past experience, under such regulations as the director of revenue may prescribe.

(c) In lieu of the deduction for ad valorem taxes paid on tangible personal property authorized under the provisions of House bill No. 1130 of the 1967 session of the legislature [79-32,109 et seq.], such taxes may be allowed as a credit against the tax computed under the provisions of this act: *Provided*, That ad valorem taxes paid on improvements on leased lands that do not become a part of the realty shall not be allowed as a credit in computing the tax due under this act. [L. 1963, ch. 463, § 4; L. 1967, ch. 488, § 1; Jan. 1, 1968.]

Research and Practice Aids:

Taxation—930, 1031, 1047.
C. J. S. Taxation §§ 1093, 1098, 1099.

79-1110. Same; procedure for returns; tax payment; laws applicable. Every national banking association, bank, trust company, and savings and loan association subject to taxation under this act shall make its return and pay the tax imposed to the director of revenue on or before April 15 in each year beginning in 1964, in the same manner, except for computing the net income subject to tax, as corporations are required to make their returns and pay their taxes under the Kansas income tax act; and each shall be subject to other provisions of said act applicable to other corporations; and shall be subject to the penalties imposed on corporations by section 79-3222 of the General Statutes Supplement of 1961 and sections 79-3228 and 79-3234 of the General Statutes of 1949 insofar as the same can be

made applicable. [L. 1963, ch. 463, § 5; Jan. 1, 1964.]

Research and Practice Aids:

Taxation—1079, 1096.
C. J. S. Taxation §§ 1102, 1106.

79-1111. Same; rules and regulations. The director of revenue is hereby charged with the administration of this act and is authorized to adopt such rules and regulations as may be necessary to properly administer and enforce the provisions thereof. [L. 1963, ch. 463, § 6; Jan. 1, 1964.]

Research and Practice Aids:

Taxation—969.
C. J. S. Taxation § 1090.

79-1112. Same; disposition of moneys. The director of revenue shall pay all tax moneys collected under the provisions of this act into the state treasury on or before the first day of each month, and the state treasurer shall credit the same to the general fund of the state. [L. 1963, ch. 463, § 7; Jan. 1, 1964.]

Research and Practice Aids:

Taxation—219, 1048.
C. J. S. Taxation §§ 210 et seq., 1098.

79-1113. Same; exemption from intangible tax. Shares, shares of stock or other evidence of ownership of national banking associations, banks, trust companies and savings and loan associations located or doing business within the state, and all income therefrom, shall be exempt from the tax imposed on moneys, notes and other evidences of debt by section 79-3109 of the General Statutes Supplement of 1961, and any amendments thereof. [L. 1963, ch. 463, § 8; Jan. 1, 1964.]

Research and Practice Aids:

Taxation—965.
Hatcher's Digest, Taxes §§ 44, 45, 107.
C. J. S. Taxation § 1090.

79-1114. Same; invalidity; effect. If any tax levied by this act shall be adjudged discriminatory, contrary to section 5219 of the United States Revised Statutes as amended (12 U.S.C.A. 548), or for any reason the tax levied against the national banking associations, banks, trust companies or savings and loan associations is invalid, then the tax heretofore levied against each of such national banking associations, banks, trust companies, and savings and loan associations shall be assessed and collected the same as if this act had not passed and other acts repealed. [L. 1963, ch. 463, § 9; Jan. 1, 1964.]

Research and Practice Aids:
Taxation—957.
C. J. S. Taxation § 1079.

Article 12.—MUTUAL
INSURANCE

Cross References to Related
Insurance companies,
40-1211.

79-1201. Return
taxed. That the profits of
insurance companies,
insurance companies
under the laws of this
taxation for state,
school purposes, as
revenue laws of this
pany or association
(1) Of all the real
by it;

(2) of the net value
or values in excess of
serve necessary to
risks, and of any un-
net value shall be
property of individual
ing herein shall oper-
tion the paid-up cap-
incorporated fire in-
1921, ch. 290, § 1; M.

Source or prior laws: L.
Research and Practice Aids:
Taxation—957.

Hatcher's Digest, Ins.
C. J. S. Taxation § 1079.
Judicial Council Bulletin
Mentioned in digest:
Caldwell, 1953 J.

CASE A

1. Cited; Kansas
companies held valid.
Insurance Tax Cases, 1
Affirmed; Prudential
Hobbs, 325 U. S. 522,
Aetna Insurance Co.,
S. Ct. 1960, 20 L. Ed.
v. Hobbs, 525 U. S. 5
1258; Pacific Mut. Life
U. S. 322, 66 S. Ct. 194

Article 13.—E
TAXATI

79-1301. Dog
restraints. A dog's
sonal property and
privileges and be-
straints as other liv-

each month of such year or such portion hereof as he may have engaged in such business then add the monthly amounts and divide the aggregate amount by the number of months he was engaged in such business during such year; and such statement shall be verified on oath as required in other cases: *Provided*, That the property so listed shall not be valued or assessed at any higher rate than other property. [K. S. A. 79-1005; L. 1971, ch. 96, § 8; July 1.]

79-1003. Tax situs of property; nonresidents; elevators. The tax situs of the property of merchants and manufacturers shall be the taxing district where such business or manufacturing is carried on and in case any such merchant or manufacturer shall have more than one place of business in the state of Kansas each such place of business shall be so taxed in the taxing district in which it is situated. All merchants or manufacturers who are nonresidents, or foreign corporations, shall be assessed upon the same basis as residents of this state or domestic corporations, and the situs for taxation of all personal property of such merchants and manufacturers used in connection with or created by the business is hereby declared to be in the place where such business is carried on.

The business of an elevator, whether individually or separately owned, or by a parent company owning several elevators located at different points, shall be considered as a merchandising business and all grain or other commodities purchased or handled by the owner or management of an elevator shall have their tax situs in the taxing district where the elevator is located through which the business is transacted: *Provided*, That the taxing situs of grain, owned by a resident of this state, held in storage by warehouse, on which warehouse receipt has been issued, shall be taxed at the place of residence of the owner of such receipt. [K. S. A. 79-1003; L. 1971, ch. 297, § 5; July 1.]

Article 11.—BANKS, BANKING BUSINESSES, TRUST COMPANIES AND SAVINGS AND LOAN ASSOCIATIONS

79-1107. National banking associations; tax imposed; rate. Every national banking association located or doing business within the state shall annually pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding calendar

year or fiscal year ending in the next preceding year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax shall be an amount equal to five and one-half percent (5½%) of such net income; and

(b) the surtax shall be an amount equal to two and one-fourth percent (2¼%) of such net income in excess of twenty-five thousand dollars (\$25,000).

The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivisions thereof upon shares of capital stock or the intangible assets of national banking associations. The state of Kansas hereby adopts the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the Revised Statutes of the United States (12 U. S. C. A. 543), relating to the manner and place of taxing national banking associations located within its limits. [K. S. A. 79-1107; L. 1970, ch. 382, § 1; July 1.]

Law Review and Bar Journal References:

Changes in Kansas income tax code discussed in "The 1970 Kansas Legislature in Review," Robert F. Bennett, 39 J. B. A. K. 107, 194 (1970).

79-1103. Same; banks, trust companies, and savings and loan associations; tax imposed; rate. Every bank, trust company, and savings and loan association located or doing business within the state shall annually pay to the state for the privilege of doing business within the state a tax according to or measured by its net income for the next preceding calendar year or fiscal year ending in the next preceding year to be computed as provided in this act. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(a) The normal tax on every bank shall be an amount equal to five and one-half percent (5½%) of such net income;

(b) the normal tax on every trust company and savings and loan association shall be an amount equal to five percent (5%) of such net income; and

(c) the surtax on every bank, trust company and savings and loan association shall be an amount equal to two and one-fourth percent (2¼%) of such net income in excess of twenty-five thousand dollars (\$25,000).

The tax levied shall be in lieu of ad valorem taxes which might otherwise be imposed by the state or political subdivision thereof upon

shares of capital assets of banks, trust and loan associations: 1970, ch. 382, § 2;

Law Review and Bar J

Changes in Kansas "The 1970 Kansas Leg Bennett, 39 J. B. A. K.

79-1113. Nat and banks and c therein; exemption Shares, shares of s ownership of nat and banks located the state, and all shares, shares of s ownership of corp a national banking or doing business the income of such to dividends receiv income therefrom, tax imposed on inc dences of debt by amendments there 1970, ch. 380, § 2;

Law Review and Bar J

Changes in exempt discussed in "The 1970 view," 39 J. B. A. K.

79-1115. Art 1103. The provide cable to all taxabl December 31, 1970 July 1.]

Article 12.—MUTUAL INSURANCE

79-1201. [K. S. 1970, ch. 181, § 12;]

Revisor's Note:

New act, see ch. 10.

Article 14.—PROPERTY EQUALIZING DEVICES AND ASSESSMENT ERTY

Law Review and Bar J

Various sections Kansas Legislature—A Bennett, 38 J. B. A. K.

79-1401.

CASE 7

7. Assessment sche

Instructions For Form M-8 1971

MINNESOTA EXCISE TAX RETURN BANK CORPORATION

IMPORTANT NOTE:

The Minnesota Identification Number means your Minnesota Employer's Number or your Minnesota Sales and Use Tax Number. If you do not have a Minnesota Number, you should contact the Withholding Unit and a number will be assigned.

The Federal Employer's Identification Number is the number assigned to the corporation by the Internal Revenue Service.

Instruction numbers below refer to item numbers on Page 1 of return.

RETURNS BY BANK CORPORATIONS

Every corporation upon which the tax is imposed must file a true and accurate return of its income or loss for the taxable period, regardless of the state of incorporation, if its taxable net income is in excess of \$500 or its gross income exceeds \$5,000. This return must be signed by an officer of the corporation.

Section 290.361 imposes an excise tax measured by net income on National and State Banks. This tax imposed upon National and State Banks is in lieu of all taxes upon the capital, surplus, property, assets and shares of such banks, except taxes imposed upon real property.

National and State Banks required to file a return must use Form M-8.

Every corporation filing a return shall complete all of the various schedules provided in the return. Where the space provided in the schedule is not sufficient to submit all of the information a schedule should be attached to the return.

Taxpayers shall employ the same accounting period on which they report, or would be required to report, their net income under the Internal Revenue Code. A taxpayer may change his accounting period only with the consent of the Commissioner. The request should be made on Form 124.

Whenever a corporation which is required to file an income tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as a parent or subsidiary corporation, or has its income regulated through contract or other arrangements, the information required in Schedule N, Page 4, must be detailed.

Receivers, trustees in bankruptcy or assignees operating the business property of a corporation must make returns of income for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property whether he is engaged in carrying on the business for which the corporation was organized or only in marshalling, selling, and disposing of its assets for purposes of liquidation.

INSTRUCTIONS FOR PAGE 1

1. Interest on Loans, Etc. — Enter on Line 1 (and list on Page 3, Schedule C, of return) all interest received or accrued.

National and State Banks must include in gross income interest upon obligations of the United States and its possessions as well as interest on obligations of the State of Minnesota or its subdivisions, any of its municipalities or any of its governmental agencies or instrumentalities.

Section 290.09 (13) of the Income and Excise Tax Act makes provision for amortization of bond premiums in accordance with the provisions of Section 171 of the Internal Revenue Code. Where interest income has been reduced by deduction of amortization of bond premium a statement should be attached showing the computation of the deduction.

In the case of obligations of the United States issued at a discount and redeemable for fixed amounts increasing at stated intervals (for example, United States Savings Bonds) a corporate taxpayer on the cash basis may elect to treat such increase as income during the taxable year. The taxpayer so electing shall report such income as interest and attach a statement listing

2. & 3. Rents and Royalties From Property — Enter on Line 2 the gross amount of rent. Deductions claimed for repairs, interest, taxes and depreciation of such property should be detailed on a separate schedule and included as one of the items of other deductions on Page 3, Schedule I and the total of Schedule I should be carried forward to Page 1, Line 20, of the return. See Page 3, "Gross Income From Tangible Property."

If royalties are received from mining properties, prepare a schedule showing name and legal description of each property, royalty received, royalty paid and tons paid for during the current year.

4. Gains and Losses From Sales or Exchanges of Property — Report sales or exchanges of property in separate Schedule E. Every sale or exchange of property, even though no gain or loss may be indicated, must be reported in detail.

Property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates or any evidence of indebtedness and any property acquired in liquidation thereof when such property is held for investment or for sale, are not deemed to be capital assets and the full amount of the gain must be included in income and the full amount of the loss is allowed as a deduction.

The sales of (1) depreciable property held over six months; and (2) real property held over six months; which was used in the taxpayer's trade or business but which was not inventory property or property held primarily for sale in the ordinary course of the taxpayer's trade or business are sales subject to the provisions of Section 290.16, Subdivision 9 of the Act as amended (1971). Such gains, if any, are subject to the statutory 50% inclusion in income; and such losses, if any, are allowable to the extent of current year capital gains.

However, a net capital loss as defined in Section 290.16 as amended (1971) may be carried back three years and carried over to each of the five succeeding taxable years and treated as a short-term capital loss to the extent not allowed against any net capital gains of any taxable years intervening between the taxable year in which the net capital loss was sustained and the taxable year to which carried.

Describe the property briefly, and state the actual consideration or price received or the fair market value of the property received in exchange. Expenses connected with the sale, such as commissions paid agents, are deducted from the sales price in computing the amount received.

In determining gain on the sale or other disposition of property acquired prior to January 1, 1940, the basis is cost or fair market value as of that date whichever is greater. For the purpose of determining a loss, cost must be used as the basis. In the case of property acquired subsequent to January 1, 1940, cost is the basis to be used in determining gain or loss.

In general, "cost" means the total consideration paid when the property was purchased by the taxpayer; the fair market value at the date of the decedent's death when the property was acquired by devise, bequest, or inheritance; and the cost of the last preceding owner not acquiring the property by gift when the taxpayer acquired the property by gift. Proper adjustment must be made for obsolescence, depreciation, depletion, tax-free distribution and other items chargeable against cost.

On February 21, 1941, the Bank Excise Tax Act was enacted requiring National and State Banks to be subject to the provisions of the Income Tax Law. The basis section of the Bank Excise Tax Act is the income tax basis provided by Section 290.15 with the express provision that the basic date for banks shall be Janu-

290.361 NATIONAL AND STATE BANKS; IMPOSITION OF EXCISE TAX, COMPUTATION, SUKTAX. Subdivision 1. Imposition of excise tax. An excise tax measured by net income is hereby imposed on national and state banks by this chapter and shall be governed by the provisions of section 290.02.

Subd. 2. Computation of taxable net income. The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rate shall be ~~13.64 percent~~ until July 1, 1973 and 12 percent thereafter; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) in computing net income there shall be allowable as a deduction from gross income, in addition to deductions otherwise provided for in this act, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality.

Subd. 3. [Repealed Laws 1971, Chapter 34, Section 1, effective January 1, 1972.]

Subd. 4. Disposition of tax. (a) The revenues derived from the excise tax on banks shall be paid into the state treasury and credited to the general fund, from which shall be paid all refunds of taxes erroneously collected from banks as certified by the commissioner. Forty-five percent of the balance of such tax so collected shall be transmitted, on the last days of May and November of each year, to the respective counties in which are located the banks paying the tax. The county auditor shall apportion and distribute 45 percent of the respective amounts paid by each bank in his county, less 45 percent of the refunds paid to that bank, in the same manner and on the same basis as he distributes taxes on personal property in the taxing district in which that bank is located, provided that the governing body of any political subdivision receiving such apportionment may place all such amounts to the credit of its general fund.

There is hereby appropriated to the persons or banks entitled to such refunds, from the general fund, an amount sufficient to make the refunds.

(b) For purposes of the apportionment and distribution required to be made to the county auditor under clause (a) of this subdivision, the tax so collected shall be deemed to have been paid to the commissioner on the last date prescribed by law for the filing of the excise

tax return, or date when such excise tax was received by the commissioner, whichever date occurs later.

(c) There is hereby annually appropriated from the general fund to the taxing districts entitled to such payments as are authorized under this section, sufficient moneys to make such payments.

Subd. 5. In lieu of certain taxes: The tax hereby imposed upon national and state banks shall be in lieu of all taxes upon the capital, surplus, property, assets, and shares of these banks, except taxes imposed upon real property.

Subd. 6. [Repealed EX1971, Chapter 31, Article 6, Section 5.]

Subd. 7. [Repealed EX1971, Chapter 31, Article 6, Section 5.]

NOTE: The provisions of section 290.361, subdivisions 4, 6 and 7, as amended by Ex Laws 1971, Chapter 31, Article 6, sections 4 and 5, shall be applicable for all income taxable under Minnesota Statutes, Chapter 290, after June 30, 1971, and shall be applied as provided in section 290.31.

[1941 c 18 s 1; 1945 c 604 s 22; 1947 c 635 s 12; 1949 c 642 s 12; 1951 c 605 s 4; EX1957 c 1 Art. VII s 3; EX1959 c 70 Art. III s 10; EX1961 c 91 Art. I s 5 and Art. V s 2; 1963 c 886 s 5, 6; 1965 c 884 Art. I s 5, 6; EX1967 c 32 Art. XII s 2, Art. XIV s 6, 7; 1969 c 881 s 7, 8; 1971 c 34 s 1; 1971 c 750 s 1; EX1971 c 31 Art. 6, s 3, 4, 5]

Chapter 148

TAXATION OF FINANCIAL INSTITUTIONS

BANKING INSTITUTIONS

- Sec.
 148.010. Title of law.
 148.020. Definition of terms.
 148.030. Banks subject to tax based on income—rate—credits.
 148.040. Definition and computation of net and gross income.
 148.050. Returns, when filed—extension of time—interest.
 148.060. Tax due, when—duties of director of revenue—credit for overpayment—penalty.
 148.070. Hearing when director computes tax as being greater than amount paid—right of appeal.
 148.080. Taxes returned to counties—two percent to state—director to allocate money.
 148.090. New banks, when taxed—tax, when due.
 148.100. Director to prescribe and publish rules and regulations—access to records.
 148.110. Tax in lieu of other taxes.

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 148.140. Credit institutions subject to annual tax—rate—credits.
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 148.160. Returns, when filed—extension of time—interest.
 148.170. Taxpayer with more than one office, returns of.
 148.180. Tax due, when—credit for overpayment—penalty for nonpayment.
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 148.220. Taxes returned to county—two percent to state—director to allocate.
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- 148.470. Definition of terms.
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148.530. Penalty for delinquent taxpayers.

FARMERS' COOPERATIVE CREDIT ASSOCIATIONS

148.540. Association and members, levy and collection—exclusiveness of tax.

CROSS REFERENCES

Administrative procedure and review, RSMo ch. 536
 Corporation franchise tax, RSMo ch. 147

BANKING INSTITUTIONS

148.010. Title of law.—Sections 148.010 to 148.110 may be designated as the "Bank Tax Law of 1946".

(L. 1945 p. 1921 §1)

148.020. Definition of terms.—For the purposes of this law the following terms shall have the following meanings:

(1) The term "banking institution" means every bank and every trust company organized under any general or special law of this state and every national banking association located in this state;

(2) The term "commissioner of finance" means the chief officer of the present state division of finance, or of such department of the state of Missouri as may hereafter have by law the supervisory duties of the present state division of finance pertaining to banks and trust companies incorporated under the laws of this state;

(3) The term "director" means the director of revenue in charge of the state department of revenue;

(4) The term "income period" means the calendar year or relevant portion thereof next preceding the taxable year;

(5) The term "taxable year" means the calendar year in which the tax is payable;

(6) The term "taxpayer" means any banking institution subject to any tax imposed by this law.

(L. 1945 p. 1921 §2)

148.030. Banks subject to tax based on income—rate—credits.—1. Every national banking association and every other banking institution shall be subject to an annual tax for the privilege of exercising its corporate franchises within the state according to and measured by its net income for the preceding year.

2. The rate of tax for each taxable year shall be seven percent of such net income.

3. Each taxpayer shall be entitled to credits against the tax imposed by this law for all taxes paid to the state of Missouri or any political subdivision thereof during the relevant income

period, other than taxes on real estate, contributions paid pursuant to the unemployment compensation tax law of Missouri and taxes imposed by this law.

(L. 1945 p. 1921 § 3, A. 1949 S. B. 1031, A. L. 1971 H. B. 169)

148.040. Definition and computation of net and gross income.—1. "Net income" means gross income as defined in subsection 2 of this section minus the deductions allowed in subsection 3 of this section.

2. "Gross income" includes all gains, profits, earnings and other income of the taxpayer from whatever sources derived during the income period, including but not limited to interest from obligations issued by the United States government or any political subdivision or any instrumentality thereof, or any state or political subdivision thereof, or issued by any foreign country or nation or political subdivision thereof; all rents, compensation for services, commissions, brokerage and other fees; all gains or profits from the sale or other disposition of any property, real or personal, tangible or intangible; and all recoveries on losses sustained in the ordinary course of business subsequent to July 1, 1946; provided, however, that recoveries on such losses sustained during any prior income period within which the deductions, as permitted by subsection 3 of this section, exceeded the taxpayer's gross income for said income period, computed in accordance with this subsection, shall not be included in the taxpayer's gross income for the income period in which they were received to the extent of said excess. Dividends received on shares of stock of any banking institution liable to a tax under this law shall not be included in gross income.

3. In computing net income there shall be allowed as deductions all ordinary and necessary expenses paid or incurred by the taxpayer during the income period in carrying on its trade or business. Without limiting the generality of the foregoing, there shall be allowed as deductions a reasonable allowance for salaries and other compensation for personal services actually rendered; rents, repairs, bad debts and debts ordered to be charged off by the commissioner of finance or the comptroller of the currency or their respective examiners as the case may be; interest; cost of insurance and advertising; all taxes paid or accrued during the income period to the United States and all taxes paid or accrued on real estate to the state of Missouri or any political subdivision thereof; all contributions paid or accrued pursuant to the unemployment compensation law of Missouri; reasonable allowances for depreciation and depletion; amortization of premiums on bonds, debentures, notes or other securities or evidences of indebtedness; a reasonable allowance for payments or contributions to or on account of any pension or retirement fund or plan for its officers or employees; contributions to any corporation, asso-

ciation or fund organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual to an amount which does not exceed five percent of the taxpayer's net income as computed without the benefit of this deduction; losses from the sale or disposition of any property, real or personal, tangible or intangible; and all other losses sustained during the income period not compensated for by insurance.

4. Net income shall be computed in accordance with the method of accounting regularly employed in keeping the books of the taxpayer, unless such method does not clearly reflect the income, in which case the computation shall be made in accordance with such method as in the opinion of the director does clearly reflect the income.

(L. 1945 p. 1921 § 5, A. 1949 H. B. 2161)

148.050. Returns, when filed—extension of time—interest.—Every taxpayer shall file a return with the director on or before the fifteenth day of April in each year. The director may grant a reasonable extension of time for filing returns under such rules and regulations as he shall prescribe. Whenever such an extension of time is granted, a taxpayer shall be required to pay as part of any tax due interest thereon at the rate of one percent per month from the day when such return should have been filed if no such extension had been granted.

(L. 1945 p. 1921 § 4, A. 1949 S. B. 1031, A. L. 1969 3d Ex. Sess. p. 86)
Effective 6-22-70

148.060. Tax due, when—duties of director of revenue—credit for overpayment—penalty.—1. The tax imposed by this chapter, shall be due and payable upon the last day upon which a return must be filed under section 148.050.

2. Upon the filing of such return the full amount of any tax as computed by the taxpayer shall be paid to the director, who as soon as is practicable thereafter shall examine it and determine the correct amount of the tax. If the director determines that the taxpayer has paid a tax in excess of the amount lawfully due, the director shall permit a credit.

3. If any tax due hereunder is not paid when due, the taxpayer shall be required to pay as part of such tax interest thereon at the rate of one percent per month from such time but not to exceed ten percent per annum.

(L. 1945 p. 1921 § 7)

148.055. Deposits, when made.—The director shall on the first and fifteenth days of each month deposit all funds received by him in payment of any tax imposed by sections 148.010 to 148.300 and 148.470 to 148.540 to the credit of the intangible tax fund created by section 146.052, RSMo.

§ 77-2716

REVENUE AND TAXATION

(g) The sales tax rate so fixed by the board shall be an increment of one half of one per cent, and the income tax rate so fixed shall be an increment of one per cent.

(2) The board shall meet within thirty days after each special session of the Legislature, and also within thirty days after receiving a report from the Tax Commissioner that there have been significant changes in the provisions of the Internal Revenue Code of 1954 and amendments thereto, other provisions of the laws of the United States relating to federal income taxes, or the rules and regulations issued under such laws, and shall determine whether the rates for sales tax and income tax must be changed. In making such determination the board shall recalculate the requirements pursuant to the formula set forth in subsection (1) of this section, taking into consideration the appropriations for such special session, all miscellaneous claims, deficiency bills, and all emergency appropriations.

In the event the board determines the rates must be changed as a result of such special session or as a result of a change in the provisions of the Internal Revenue Code of 1954 and amendments thereto, other provisions of the laws of the United States relating to federal income taxes, and the rules and regulations issued under such laws, such sales tax rate shall be made effective at the beginning of any calendar month within the current calendar year and such income tax rate shall be effective for the current taxable year.

Source: Laws 1969, c. 624, § 3.
Effective date August 25, 1969.

77-2716. Income tax; adjustments. (1) There shall be subtracted from federal taxable income interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States; *Provided*, that the amount subtracted under the provisions of this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection, and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(2) There shall be added to or subtracted from federal taxable income, as the case may be, the taxpayer's share of the fiduciary adjustment determined under the provisions of section 77-2720.

Source: Laws 1967, c. 437, § 16, p. 1579.
Effective date April 12, 1967.

77-2717. Income tax; estates; trusts; rate; fiduciary return; contents; filing. (1) The tax imposed on, and the computation of the tax for, individuals shall apply to the tax liability of all estates and

trusts and Revenue (2) Is required to be a responsible party, who beneficial statement when such Source

77-2718. trust may domiciled of proper domiciled ing of the such trust poses of vocable portion of such property Source

77-2719. resident the addit fiduciary 77-2720. Source

77-2720. adjustm in secti estate or relates to (2) Tr ficiaries. resident portion come of distribu benefici his sha law or tributed in such allocate

(3) Income from intangible personal property including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this state.

(4) Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses, and deductions derived from or connected with sources in this state, under regulations to be prescribed by the Tax Commissioner but otherwise shall be determined in the same manner as the corresponding federal deductions.

(5) If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment and allocation under regulations to be prescribed by the Tax Commissioner.

(6) Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident shall constitute income derived from sources within this state.

Source: Laws 1967, c. 497, § 33, p. 1585.
Effective date April 12, 1967.

77-2734. Income tax; corporation; tax; how determined. (1) A tax is hereby imposed for each taxable year on the taxable income derived from sources within this state of any corporation or any other entity taxed as a corporation under the Internal Revenue Code whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both, at a rate equal to twenty per cent of the rate imposed on individuals under section 77-2715. For any taxpayer subject to this section whose fiscal year does not coincide with the calendar year, the rate initially set shall also apply for the period from January 1, 1967, to the last day of his then current fiscal year.

(2) Except as provided in subsection (1) of this section, for the purpose of exercising its franchise or doing business in this state in its corporate capacity, there is hereby imposed a franchise tax on any corporation or any other entity taxed as a corporation under the Internal Revenue Code according to or measured by its entire net income derived from all sources within this state for the taxable year at the rate imposed under subsection (1) of this section. For the purposes of this subsection the taxpayer's entire net income shall be its federal taxable income derived from sources within this state as determined pursuant to sections 77-2735 to 77-2749 with regard to the modification referred to in section 77-2741, the Nebraska hereby adopting method numbered (4) authorized in section 5219, United States Revised Statutes, as amended. 12-1-67. for state taxation of national banking associations. The tax imposed by this subsection on national banking associations

E. "Internal Revenue Code" means the United States Internal Revenue Code, as amended;

F. "net income" means that part of the taxpayer's income generally defined as federal taxable income and it shall be computed in the same manner as provided in the Internal Revenue Code for computing federal taxable income, except that the income from federal, state and municipal securities must be included in the computation of net income for the purposes of the Banking and Financial Corporations Tax Act. Net income does not include amounts that have been taxed as income to another member of an affiliated group of corporations under the Income Tax Act [72-15A-1 to 72-15A-15]; and

G. "taxable year" means the calendar year or fiscal year for which net income is computed. In the event a return is made for a fractional part of a year, taxable year includes the period for which the return is made.

History: Laws 1969, ch. 151, § 2.

Opinions of Attorney General
1969-70, No. 70-30.

72-15B-3. Imposition of tax on banks measured by net income—Method of taxing national banking associations.—An annual tax measured by net income is imposed upon every bank located within this state. New Mexico expressly adopts method number four as authorized for the taxation of national banking associations in 12 USC § 548.

History: Laws 1969, ch. 151, § 3.

72-15B-4. Financial corporations—Imposition of tax measured by net income.—An annual tax measured by net income is imposed upon every financial corporation located within this state.

History: Laws 1969, ch. 151, § 4.

72-15B-5. Rate of tax on banks and financial corporations—Minimum tax.—A. The rate of tax on banks and financial corporations shall be six per cent [6%] of net income.

B. The tax on banks and financial corporations shall not be less than one hundred dollars (\$100) for each taxable year.

History: Laws 1969, ch. 151, § 5.

Opinions of Attorney General.
1969-70, No. 69-102.

Tax Credit for 1969.

Laws 1970, ch. 3 provided a 20% tax credit for the year 1969. See note under 72-15A-5.

72-15B-6. Tax in lieu of other taxes—Exceptions.—The taxes imposed by sections 3 and 4 of the Banking and Financial Corporations Tax Act [72-15B-3, 72-15B-4] are in lieu of all other taxes imposed by the state and its political subdivisions upon banks and financial corporations for calendar year 1969 and all subsequent years, except taxes upon their real property and taxes arising from activities which are not in the course of their regular banking and financial corporation functions.

History: Laws 1969, ch. 151, § 6.

Opinions of Attorney General.
1969-70, Nos. 69-102, 70-30, 70-63.

N.Y.

§ 219-y. Gross income defined. 1. The term "gross income" includes gains, profits and income derived from the business, of whatever kind and in whatever form paid, including gains, profits or income from dealings in property, whether real or personal, or gains, profits or income received as compensation for services, as interest, rents, commissions, brokerage or other fees, or otherwise in carrying on such business, including all dividends received on stocks and all interest received from federal, state, municipal or other bonds.

2. If the gross income of a taxpayer is derived from business carried on both within and without the state, gross income means that proportion thereof which is derived from business carried on within the state to be allocated and determined under rules and regulations prescribed by the commission.

[Added by L. 1926, Ch. 286.]

3. "Gross income" of a savings bank shall include the amount received by it in any taxable year as a distribution in liquidation of the mutual savings bank fund.

[Added by L. 1945, Ch. 764, effective April 12, 1945.]

§ 219-z. Deductions. In computing net income there shall be allowed as deduction:

1. All the ordinary and necessary expenses paid or incurred during the year in carrying on business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession for business purposes of property to which the taxpayer has not taken or is not taking title or in which such taxpayer has no equity.

2. All interest paid or accrued during the year on indebtedness.

3. Taxes, other than taxes on income or profits paid or accrued within the year, imposed, first, by the authority of the United States, or of any of its possessions, or, second, by the authority of any state, or territory, or any county, school district, municipality, or other taxing subdivisions of any state or territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed, or, third, by the authority of any foreign government; and also taxes measured by net income, imposed by any city of this state.

[Amended by L. 1966, Ch. 775, effective July 1, 1966 and applicable to taxable years commencing on or after January 1, 1966.]

4. Losses sustained during the year and not compensated for by insurance or otherwise, if incurred in business; unless in order to clearly reflect the income the losses should in the opinion of the commission be accounted for as of a different period. No deduction shall be allowed for any loss claimed to have been sustained in any sale or other

disposition of thirty days before the taxpayer has acquired the property so acquired by sale or other transaction mentioned in this section is to the only a proportion

5. Debts accrued or in the discharge of bad debts, the commission in the case of a debt incurred by a taxpayer, no deduction.

6. A reasonable amount of property used in the production of income. In the case of a loss on the part of the taxpayer, the basis of its property such deduction may

[Amended by L. 1964 and applicable to taxable years commencing

7. If the gross income derived from the business, as otherwise provided in that proportion thereof derived from the business both within and without the state, the allocation of the gross income to the state shall be determined in accordance with the rules prescribed by the commission.

[Added by L. 1964 and applicable to taxable years commencing on or after January 1, 1966.]

8. In the case of a trust to provide for the support of a spouse, there shall be allowed as a deduction contributions to the trust liability accruing during the year in which one of the trust assets is sold during

N. C.

§ 105-228.11

REVENUE LAWS

§ 105-228.13

§ 105-228.14

ARTICLE 8C.

Schedule I-C. Excise Tax on Banks.

§ 105-228.11. To whom this article shall apply.—The provisions of this article shall apply to every bank or banking association, including each national banking association, that is organized and operating in this State as a commercial bank, an industrial bank, a savings bank, a trust company, or any combination of such facilities or services, and whether such bank or banking association, hereinafter to be referred to as a bank or banks, be organized, under the laws of the United States or the laws of North Carolina, in the corporate form or in some other form of business organization. (1957, c. 1340, s. 8.)

Cited in Lenoir Finance Co v. Currie.
254 N. C. 129, 118 S. E. (2d) 543 (1961).

§ 105-228.12. Imposition of an excise tax.—An annual excise tax is hereby levied on every bank located and doing business within this State, including each national banking association, for the privilege of transacting business in this State during the calendar year, according to or measured by its entire net income as defined herein received or accrued from all sources during the preceding calendar year hereinafter referred to as taxable year, at the rate of six percent (6%) of such entire net income. The minimum tax assessable to any one bank shall be ten dollars (\$10.00). The liability for the tax imposed by this section shall arise upon the last day of each preceding taxable year, and shall be based upon and measured by the entire net income of each bank or trust company for such preceding taxable year, including all income received from government securities (whether or not taxable under article 4 of this chapter) in such year except for any interest that may be allowed as deductible from gross income under G.S. 105-228.16; provided, that the tax herein levied shall not be collectible for any year from any bank or trust company which fails to engage in business for any part of the year for which levied. This section shall be effective on and after December 31, 1959, so that the excise tax for 1960 shall be measured by net incomes for the taxable year 1959 and the liability therefor shall arise on December 31, 1959. In the case of a merger of two or more banks during the preceding calendar year the tax of the resultant bank shall be measured by the entire net income of all constituent banks during such preceding calendar year. As used in this article the words "taxable year" shall mean the calendar year next preceding the calendar year for which and during which the excise tax is levied. (1957, c. 1340, s. 8; 1959, c. 1259, s. 7; 1969, c. 1075, s. 6.)

Editor's Note. — The 1969 amendment, effective July 1, 1969, substituted "six percent (6%)" for "four and one-half percent (4½%)" near the end of the first sentence. Session Laws 1969, c. 1075, s. 8, provides: "This act shall not affect the liability of any taxpayer arising prior to the effective date of the applicable section hereof."

§ 105-228.13. Method of taxation adopted. — The State of North Carolina hereby adopts the method of taxation of banks authorized by an Act of Congress relating to taxation of national banks, being method number (4) as provided in § 548, as amended, of Title 12 of the Code of Laws of the United States, formerly known as § 5219, of the Revised Statutes of the United States.

The excise tax levied under G. S. 105-228.12 shall be in lieu of the intangible personal property tax levied under article 7 of this chapter, the franchise tax imposed by article 3 of this chapter, the income tax levied by article 4 of this chapter, taxes levied upon the shares of stock of banks assessed under G. S. 105-346, and taxes levied upon tangible personal property by local taxing jurisdictions. All real property of each bank located or doing business within this State, including national banking associations, shall be assessed and taxed (in the same manner as other real estate is taxed in this State) by the counties.

municipalities located.

It is the purpose so that all be taxed uniformly of § 548 of Title 12 of the Code of Laws of the State of North Carolina, as amended, and the provisions of the Code of Laws of the State of North Carolina, as amended, relating to the taxation of banks, shall be construed in accordance with the provisions of G. S. 1340, s. 8.)

Editor's Note to in this section Subchapter I revised and 1971, c. 806. similar provisions Provisions

§ 105-228.14. "come" shall mean this article

§ 105-228.15. words "gross income" shall mean whatever is received by a bank or trust company from loans, interest, dividends, or other sources, less the amount of interest or other expenses paid or accrued by the bank or trust company in the course of its business, and less the amount of interest or other expenses paid or accrued by the bank or trust company in the course of its business, and less the amount of interest or other expenses paid or accrued by the bank or trust company in the course of its business.

§ 105-228.16. income tax

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municipalities, and other local taxing jurisdictions in which such real estate is located.

It is the purpose and intent of the General Assembly to levy taxes on banks so that all banks, both State and national, doing business in this State will be taxed uniformly in a just and equitable manner in accordance with the provisions of § 548 of Title 12 of the Code of the United States cited above and article V, § 3 of the Constitution of North Carolina. The intent in this article is to exercise the powers of classification and of taxation on property, franchises, and trades conferred by the above constitutional provision cited in this section. (1957. c. 1340. s. 8.)

Editor's Note.—Section 105-346, referred to in this section, formerly appeared in Subchapter II of Chapter 105, which was revised and rewritten by Session Laws 1971, c. 806, effective July 1, 1971. For similar provisions, see now § 105-360.

Provisions similar to former Article V,

§ 3, Const. 1868, referred to in this section, now appear in Article V, § 2, Const. 1970.

Property Leased by Bank Exempt from Ad Valorem Taxes.—See opinion of Attorney General to Mr. Thomas C. Posey, Lenoir County Tax Superior, 7/21/70.

§ 105-228.14. Entire net income defined.—The words "entire net income" shall mean the gross income of a taxpayer less the deductions allowed by this article (1957. c. 1340. s. 8.)

§ 105-228.15. Gross income defined.—For purposes of this article the words "gross income" shall mean the income of a bank received or accrued from whatever source during the taxable year as follows: Interest and discount on loans, interest from bonds, notes, mortgages and other investments, including interest from all government bonds issued direct by any level of government or through any government agency, any exclusion provided in article 4 of chapter 105 notwithstanding, dividends from securities owned; service charges; collection fees; exchange charges; trust department earnings; rents; commissions; gains or profits from the sale or other disposition of property, either real or personal tangible or intangible, recoveries from losses previously written off or deducted from income in prior taxable years, and all other recoveries, gains, profits, income, or receipts regardless of nature and from whatever source derived, except that gifts received shall be excluded from gross income. (1957. c. 1340. s. 8.)

§ 105-228.16. Deductions from gross income.—In computing entire net income there shall be allowed as deductions the following items:

- (1) All ordinary and necessary expenses paid or accrued during the taxable year.
- (2) Rental expense paid or accrued during the taxable year.
- (3) All unearned discount and interest paid during the taxable year except interest paid in connection with income exempt from taxation under this article and except interest deemed excessive under G.S. 105-130.6.
- (4) Taxes paid or accrued except taxes based on net income, taxes assessed for local benefit of a kind tending to increase the value of the property assessed and any other taxes not deductible for corporate income tax purposes under the provisions of Division I of Article 4.
- (5) Dividends received from stock issued by any corporation to the extent provided in G.S. 105-130.7.
- (6) Net economic losses to the extent provided in G.S. 105-130.8 and other losses as provided in Division I of Article 4.
- (7) Loans or debts ascertained to be worthless and actually charged off during the taxable year, if connected with business and if the amount has previously been included in gross income in a return under this article; or, in the discretion of the Commissioner of Revenue, a reasonable addition to a reserve for bad debts. Provided, that amounts which are

deductible for federal income tax purposes shall be prima facie allowable hereunder.

- (8) A reasonable allowance for depreciation and obsolescence to the extent provided for corporation income tax purposes in Division I of Article 4.
- (9) Contributions to religious, charitable, educational, literary and like organizations to the extent provided in subdivision (1) of G.S. 105-130.9.
- (10) Contributions to the State of North Carolina, any of its institutions, instrumentalities, agencies, or political subdivisions, and contributions to educational institutions located within North Carolina as provided in subdivision (2) of G.S. 105-130.9.
- (11) Reasonable contributions to qualified employees' pension trusts within the taxable year.
- (12) Premiums paid by banks upon the purchase of bonds to the following extent:
 - a. Amortization of bond premiums on tax-exempt bonds shall be mandatory for all taxpayers. Amortization for the taxable year shall be accomplished by lowering the basis or adjusted basis of the bond, with no deduction against gross income for the year.
 - b. Amortization of bond premiums on taxable bonds shall be elective for all taxpayers. The amortizable premium for the taxable year may be deducted from gross income only if an adjustment is made to the basis of the bond.
 - c. For purposes of this subdivision, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness issued by any corporation and bearing interest and includes any like obligation issued by any government or political subdivision thereof.
- (13) Interest upon the obligations of the State of North Carolina or a political subdivision thereof received or accrued during the taxable year. Provided, that the deduction of accrued interest shall be permitted only if the taxpayer has included accrued income in his gross income for the taxable year. Provided further, that in the event that any court of competent jurisdiction shall rule that the deduction of the interest of the obligations of the State of North Carolina or a political subdivision thereof from the base of the tax levied by this article violates the Constitution of this State or the Constitution of the United States, such deduction shall be disallowed and such interest shall be included in the entire net income of the taxpayer.
- (14) Reasonable payments made to the beneficiaries or to the estate of a deceased employee, paid by reason of the death of the employee to the extent provided for corporate income tax purposes in Division I of Article 4.
- (15) Deduction of accrued expenses, contributions, taxes, rental expense, or interest expense shall be subject to the limitations imposed upon corporate income taxpayers by article 4. (1957, c. 1340, s. 8; 1967, c. 1110, s. 8.)

Editor's Note.—Section 16, c. 1110, Session Laws 1967, provides: "This act shall not affect the liability of any taxpayer arising prior to the effective date of the applicable section hereof." Session Laws 1967, c. 1110, s. 8, became effective Jan. 1, 1967.

§ 105-228.17. Returns and payment of the excise tax. — On or before March 15 of each year, the executive officers or officers of each bank, or trust company, located and doing business in this State, shall file with the Commissioner of Revenue a full and accurate report of all income as defined in G.S. 105-228.15 received or accrued during the taxable year, and also an accurate record of the legal deductions in the same calendar year as allowed by G.S.

105-228.16 terminated. The the Commis- with respect At the time with respect Revenue. (1

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NORTH DAKOTA

57-35-04. BASIS OF TAX.- The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year, and shall be based upon and measured by the net income of each bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year as returned to the tax commissioner and county auditor, and the tax thereon shall be computed at the rate of ~~four per cent~~, but the minimum tax assessable to any one taxpayer shall be fifty dollars.

SOURCE: S.L. 1941, Ch. 270, sec. 3; R.C. 1943, sec. 57-3504.

57-35-05. DUE DATE.- All taxes levied and assessed under the terms and provisions of this chapter shall become due on the thirty-first day of December following the report to the tax commissioner provided in section 57-35-07, and shall become delinquent on the first day of March next after they become due. Thereupon a penalty of five per cent shall attach and be charged upon all delinquent taxes, and thenceforth interest shall be charged at the rate of three-fourths of one per cent per month of the original amount of the tax until the same is paid.

SOURCE: S.L. 1941, Ch. 270, sec. 4; R.C. 1943, sec. 57-3505.

57-35-06. LIEU TAX.- The tax provided in this chapter shall be in lieu of all other taxes or impositions, state, county, and local, except taxes upon the real property of each such bank and trust company.

SOURCE: S.L. 1941, Ch. 270, sec. 5; R.C. 1943, sec. 57-3506.

57-35-07. REPORT.- On or before the fifteenth day of March in each year, the managing officer of each bank or trust company located in this state shall file with the tax commissioner, on forms to be provided by him, a report in writing under oath showing the amount of the net income of said bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year, and, at the same time shall file with the county auditor of the county in which such bank or trust company is located, a duplicate original of such report.

SOURCE: S.L. 1941, Ch. 270, sec. 6; R.C. 1943, sec. 57-3507.

57-35-08. COMPUTATION AND CERTIFICATION OF TAX.- On or before August first of each year, the tax commissioner shall compute the total tax to be assessed under the terms and provisions of this chapter, and shall certify the same to the county auditor of the county in which each taxpayer is located.

SOURCE: S.L. 1941, Ch. 270, sec. 7; R. C. 1943, sec. 57-3508.

OKLAHOMA

B. Such reports may be required, regardless of amounts, (1) in case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of dividend payments by corporations subject to the tax levied by this act and (3) in the case of any broker transacting any business, as such, for any individual subject to the provisions of this act. The Tax Commission may require such corporations to state the name and address of each shareholder, the number of shares owned by him and, in the case of a broker, it may require submission of the names of the customer for whom such broker transacted any business, with such details as to profits, losses or other information as the Tax Commission may require as to each such customer. Any reports required under this subsection shall likewise be rendered under oath, and in accordance with rules and regulations prescribed and adopted by the Tax Commission.

SECTION 20. IN LIEU TAX FOR NATIONAL BANKS. A. In lieu of the tax levied by Section 5. of this act, every national banking association located or doing business within the limits of the State of Oklahoma shall annually pay to this state a tax according to, or measured by, its entire net income for its taxable year at the rate of four percent (4%) of the amount of the net income as herein provided.

B. The tax levied by this section shall be exclusive and in lieu of all taxes levied by the State of Oklahoma, or any subdivision thereof, on the property of any association liable to tax hereunder; provided, that nothing in this section shall be construed to exempt the real property of national banking association from taxation to the same extent, according to its value, as other real property is taxed.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 25 of this act. The accrual of such tax for the first taxable year to which this act applies, shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction inuring to the benefit of the taxpayer shall be deducted in accordance with the optional transitional deduction procedures in Section 4. of this act.

The basis of the tax shall be the taxable income as defined herein and any additions thereto under the provisions of Section 8., A., 1., hereof except interest income on obligations of the State of Oklahoma or political subdivisions thereof and any allocations of net income permitted under Section 8. Provided further, that the reserve for bad debts shall be included in the optional transitional deduction provided in Section 4. of this act.

SECTION 21. IN LIEU TAX FOR STATE BANKS AND CREDIT UNIONS. A. In lieu of the tax levied by Section 5. of this act, every bank or credit union organized under the laws of this state shall pay annually to this state for the privilege of doing business within its limits, a tax according to, or measured by, its entire net income for its taxable year at the rate of four percent (4%) of the amount of the net income as herein provided.

B. The tax levied by this section shall be exclusive and in lieu of taxes on the shares of stock or personal property of any such bank or credit union subject to taxation under this section, except organization fees and taxes imposed by the banking laws in the case of banks. Nothing in this section shall be construed to exempt the real property of any such taxpayer from taxation to the same extent, according to its value, as other real property is taxed.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 25 of this act. The accrual of such tax for the first taxable year to which this act applies shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction inuring to the benefit of the

mutual savings bank, and financial, centrally assessed, manufacturing, mercantile or business corporation subject to the tax imposed by this chapter.

(17) "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under this chapter. "Taxable year" includes, in the case of a return made for a fractional part of a year, the period for which such return is made. The first taxable year, to be called the taxable year 1929, shall be the calendar year 1929.

(18) As used in 317.076, 317.078, 317.197, 317.199 and 317.209, "domestic insurer" has the meaning defined by subsection (1) of ORS 731.092 and subsections (1) and (2) of ORS 731.142 but does not include title insurers or health care service contractors operating pursuant to ORS chapter 750.

[Amended by 1953 c.38 §1, 1959 c.531 §1, 1963 c.571 §1; subsection (13) enacted as 1959 c.300 §2]

317.015 [Repealed by 1957 c.652 §1 (ORS 314.075 and 314.080 enacted in lieu of ORS 316.025, 316.030, 317.015 and 317.020)]

317.016 "Regulated investment company" defined; subject to provisions of federal law. (1) As used in this chapter, "regulated investment company" means a corporation which is recognized by the federal Internal Revenue Service as a regulated investment company within the provisions of the Internal Revenue Code (1954), section 851.

(2) For the purposes of this chapter, a regulated investment company in Oregon is subject to the definitions, limitations, requirements and rules found in the federal Internal Revenue Code (1954), sections 851 to 855, and federal regulations promulgated in connection therewith.

(3) Any reference in ORS 317.016 and 317.156 to the Internal Revenue Code of the United States and to regulations promulgated thereunder means the federal Internal Revenue Code of 1954 and amendments thereto and pertinent regulations thereunder in effect on December 31, 1956.

[1967 c.274 §§2, 3, 5]

317.020 [Repealed by 1957 c.632 §1 (ORS 314.075 and 314.080 enacted in lieu of ORS 316.025, 316.030, 317.015 and 317.020)]

317.025 Omission of previously enacted savings clauses not intended as repeal. The omission from the Oregon Revised Statutes of those statutes which were part of Acts amending the statutes that constitute the source of this chapter and which provided

savings clauses for the statutes amended, is not intended as a repeal of them. Such statutes shall, in so far as they are applicable, continue to be so applicable.

317.060 License fees not repealed. Nothing in this chapter shall be construed to repeal the present capital stock tax or annual corporation license fee otherwise provided for by law.

317.085 Effect of subsequent repeal of chapter. In the event of repeal of this chapter, unless otherwise specifically provided in the repeal, this chapter shall remain in full force for the assessment, imposition and collection of the tax and all interest, penalty or forfeitures which have accrued or may accrue in relation to any such tax for the calendar year in which the tax is repealed.

IMPOSITION OF TAX; OFFSET AGAINST TAX

317.055 Tax on national banking associations and production credit associations. Every national banking association and every production credit association organized under federal statute and not exempt from taxation by federal law located within the limits of this state shall pay annually to the state an excise tax according to or measured by its net income, to be computed in the manner provided by this chapter at the rate of eight percent.

[Amended by 1957 c.607 §1; subsection (2) of 1951 Replacement Part derived from 1957 c.607 §11 and 1957 (s.s.) c.5 §1; 1963 c.571 §2]

317.060 Tax on state banks and financial institutions. Every bank, other than a national banking association, and every financial corporation, building and loan association, savings and loan association and mutual savings bank, located within the limits of this state, shall annually pay to the state, for the privilege of carrying on or doing of business by it within this state, an excise tax according to or measured by its net income to be computed in the manner provided by this chapter at the rate of eight percent.

[Amended by 1957 c.607 §2; subsection (2) of 1951 Replacement Part derived from 1957 c.607 §11 and 1957 (s.s.) c.5 §1; 1963 c.571 §3]

317.065 Taxes referred to in ORS 317.055 and 317.060 in lieu of all taxes except taxes on real property. The tax referred to in ORS 317.055 and 317.060 is in lieu of all other state, county and municipal

ORS 286
O F
CISK

June 24, 1964

Mr. Robert Myers
Attorney at Law
1016 Oregon Bank Building
Portland 4, Oregon

Re: Income on Bond Interest Under
ORS 286.070 (LS 7252)

Dear Mr. Myers:

Mr. Carlisle B. Roberts, Chief Counsel of the Law Section of the Oregon State Tax Commission, has referred to me for answer your telephone question to him as to whether or not interest received by a corporation on account of state of Oregon bonds issued after May 24, 1951, would be subject to the measure of tax under ORS 317, which chapter imposes upon certain corporations a tax for the privilege of carrying on or doing business by it within the State of Oregon which tax is according to or measured by the net income of the corporation.

ORS 317.105(4) provides that in arriving at gross income for the corporation, there shall be included "all interest received on bonds, securities or other evidence of indebtedness. . . and all other income from money or credits."

As you undoubtedly know, the State of Oregon has been requiring the inclusion of interest on federal government bonds in the computation of gross income. This is so even though 31 USCA § 742 provides as follows:

"Except as otherwise provided by law, all stocks, bonds, treasury notes, and all other obligations of the United States shall be exempt from taxation by or under state or municipal or local authority. This exemption extends to every form of taxation that would require that either the obligations or the interest thereon, or both, be considered, directly or indirectly, in the computation of the tax, except nondiscriminatory franchise or other non-property taxes and those thereof imposed on corporations and except estate taxes or inheritance taxes."

Interest on U.S. Bonds, which should be included in measure of income for purposes of ORS ch 317

NO. 1502
TAX COMM.
LEGAL DEPT.

Mr. Robert Myers

-2-

June 24, 1964

The last sentence of this statute was added by Congress in 1959, to clarify a situation which arose in one state, whereby that state evidently required the reporting of interest on federal bond interest on individual returns in the computation of gross income, then allowed a deduction for it in arriving at the net income with the result that the taxpayer was put in a higher tax bracket. I point this fact out only to indicate that prior to 1959 there was no express statutory authority for states to take into consideration federal bond interest in computing a franchise tax on a corporation. Notwithstanding this fact, the United States Supreme Court has long held that since a franchise tax is a tax on the privilege of carrying on business within the state, and is not a tax on income as such, a state would be fully justified in including federal bond interest in arriving at a figure, a certain percentage of which would be the measure of the tax for the privilege of carrying on business within the state. People v. Home Insurance Company, 134 US 594.

ORS 286.070 reads:

"The interest of all bonds, including refunding bonds, of the State of Oregon issued after May 24, 1961, shall be exempt from taxation by the State of Oregon."

We can see no logical reasons to construe the Oregon statute any different way than the United States Supreme Court has construed the federal statute with regard to federal bond interest. That is, that the inclusion of Oregon bond interest in the measure of income of corporations under ORS chapter 317 would not be taxation of the interest on the bond as such, but would only be used in the measure of income, a certain percentage which would be taxed for the privilege of the corporation doing business within the state.

Accordingly, we are of the opinion that interest received by a corporation on account of the State of Oregon bonds issued after May 24, 1961, would be subject to the measure of tax under ORS 317.

Very truly yours,

Donald C. Seymour
Attorney

DCS/mlm

SECTION.	SECTION.
44-14-23. Information confidential — Types of disclosure authorized.	44-14-31. Examination of books and witnesses.
44-14-24. Power to summon witnesses.	44-14-32. Penalty for violations by banks.
44-14-25. Service of summons.	44-14-33. Penalty for violations by individuals.
44-14-26. Enforcement of summons.	44-14-34. Penalty for failure to file return.
44-14-27. Determination of tax without return.	44-14-35. Hearing on application by bank.
44-14-28. Pecuniary penalty for failure to file report.	44-14-36. Judicial review.
44-14-29. Pecuniary penalty for false return.	44-14-37. Collection by writ of execution.
44-14-30. Collection of pecuniary penalties.	44-14-38. Severability of provisions.

44-14-1. Short title.—This chapter may be designated as the "Bank tax act of 1942."

History of Section.

P. L. 1942, ch. 1212, art. 7, § 1; G. L. 1956, § 44-14-1.

Comparative Legislation.

Taxation of banks:
Conn. Gen. Stat. 1958, §§ 12-213—12-242.
Mass. Laws Ann., ch. 63, §§ 1-19.

44-14-2. Definition of terms.—For the purposes of this chapter

A. The term "banking institution" means every state bank, trust company, national banking association and loan and investment company, but shall not include a mutual savings bank, a credit union, or a building and loan association;

B. The term "taxpayer" means any banking institution subject to any tax imposed by this chapter;

C. The term "administrator" means the tax administrator in the department of administration appointed under the provisions of § 44-1-1;

D. The term "director" means the head of the department of administration appointed under the provisions of § 42-11-1;

E. The term "taxable year" means the calendar year in which the tax is payable;

F. The term "income period" means the calendar year, or portion thereof, next preceding the taxable year;

G. The term "securities" includes, but shall not be limited to,
(1) shares of stock or certificates of beneficial interest, or rights to buy the same, of a corporation, joint-stock company, association, or business trust;

(2) bonds, debentures, notes, certificates, or other evidences of indebtedness of any individual, partnership, corporation, joint-stock company, association, or business trust (including those issued by

the United States government or any state, or political subdivision of either, or issued by any foreign country or nation or political subdivision thereof).

History of Section.

P. L. 1942, ch. 1212, art. 7, § 2; P. L. 1943, ch. 1341, § 1; impl. am. P. L. 1951, ch. 2727, art. 1, § 3; G. L. 1956, § 44-14-2.

44-14-3. Tax on state banks.—Each banking institution organized or incorporated under the laws of this state shall annually pay a tax or excise to the state for the privilege of existing as such during any part of the taxable year. Such tax shall be measured by

(1) net income, as hereinafter defined, for the income period and shall be computed at the rate of seven per cent (7%) of such net income, or

(2) authorized capital stock as of the last day of the income period and shall be computed at the rate of two dollars fifty cents (\$2.50) for each ten thousand dollars (\$10,000), or fractional part thereof, of such authorized capital stock;

whichever measure shall yield the greater amount of tax.

History of Section.

P. L. 1942, ch. 1212, art. 7, § 3; P. L. 1943, ch. 1341, § 2; G. L. 1956, § 44-14-3; P. L. 1958, ch. 17, art. 2, § 1; P. L. 1959, ch. 163, art. 1, § 1; P. L. 1960, ch. 66, art. 1, § 1; P. L. 1963, ch. 263, art. 6, § 1.

44-14-4. Tax on national banks.—Each national banking association located within the limits of this state shall annually pay to the state a tax according to or measured by its net income, as hereinafter defined, which tax shall be computed at the rate of seven per cent (7%).

History of Section.

P. L. 1942, ch. 1212, art. 7, § 3; P. L. 1943, ch. 1341, § 2; G. L. 1956, § 44-14-4; P. L. 1958, ch. 17, art. 2, § 1; P. L. 1959, ch. 163, art. 1, § 1; P. L. 1960, ch. 66, art. 1, § 1; P. L. 1963, ch. 263, art. 6, § 1.

Cross-Reference.

Stock in national bank outside state owned by resident, taxation, § 44-4-16.

Collateral Reference.

Discrimination in state taxation of national banks or national bank shares. 59 A. L. R. 10; 81 A. L. R. 502; 87 A. L. R. 846.

44-14-5. Minimum tax.—The tax imposed upon any banking institution or national banking association under §§ 44-14-3 and 44-14-4 shall not be less than ten dollars (\$10.00).

History of Section.

P. L. 1942, ch. 1212, art. 7, § 3; P. L. 1943, ch. 1341, § 2; G. L. 1956, § 44-14-5.

SOUTH CAROLINA

CHAPTER 7.

Income Tax on Banks.

§ 65-401. "Banks" and "taxpayers" defined.—For the purpose of this chapter and unless otherwise required by the context, the words "banks" and "taxpayers," whenever used in this chapter, shall mean any person engaged in a banking business, whether incorporated under the laws of this State, any other state or the United States or whether unincorporated, except cash depositories. (1952 Code § 65-401; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

§ 65-402. Tax on income of banks. — A tax is imposed upon every bank engaged in business in the State which shall be levied, collected and paid annually with respect to the entire net income of the taxpayer doing a banking business within this State or from the sales or rentals of property within this State, computed at the rate of four and one half per cent of the entire net income of such bank or taxpayer. (1952 Code § 65-402; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

Cross reference.—As to bank notes and stock exempt from taxes, see § 65-1522.

§ 65-403. Tax in lieu of other taxes except on real property.—The income tax provided in this chapter shall be in lieu of all other taxes on banks, except taxes on real property. The real property of any such bank shall be taxed in the place where it may be located, the same as the real property of individuals. (1952 Code § 65-403; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

§ 65-404. Enforcement, administration, liens, penalties, etc. — For the purpose of administration, enforcement, collection, liens, penalties and other similar provisions, all of the provisions of chapter 5 of this Title that may be appropriate or applicable are adopted and made a part of this chapter for the enforcement and administration of this chapter. (1952 Code § 65-404; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

§ 65-405. Payment of tax; distribution.—The taxes provided for in this chapter shall be paid to the Commission as is provided in § 65-404 and the income tax paid under the provisions of this chapter shall be distributed among the general fund of the State, the county and the municipality in which the bank is located as follows:

- (1) Ten per cent to the general fund of the State;
- (2) Sixty per cent to the county; and
- (3) Thirty per cent to the municipality in which the bank is located.

The revenue received from banks located outside of incorporated cities or towns shall be distributed as follows:

- (1) Forty per cent to the general fund of the State; and
- (2) Sixty per cent to the county.

The Commission shall draw warrants on the State Treasurer for such distribution on or before May fifteenth of each year and the State Treasurer shall honor such warrants.

For the purpose of and in the distribution of the taxes paid under this chapter by a bank having one or more branches, each branch of the bank shall be deemed to have paid such portion of the entire tax as its deposits on January first of each taxable year bear to the total of the deposits of all branches, and the tax shall be distributed accordingly. (1952 Code § 65-405; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

§ 65-406. *Invalidity.* — In case the first sentence of § 65-403 should for any reason be declared to be invalid by a court of competent jurisdiction, the provisions of §§ 2663 through 2675, 2677 and paragraphs (33), (34) and (53) of § 2578 of the Code of 1942 shall be and remain in full force and effect and the income tax provided in this chapter shall not be effective. (1952 Code § 65-406; 1942 Code § 2676; 1937 (40) 565; 1938 (40) 1762.)

CHAPTER 8.

Income Tax on Building and Loan Associations.

§ 65-421. *"Association" defined.* — For the purpose of this section, the word "association" shall include building and loan associations, savings and loan associations, Federal savings and loan associations, and cooperative banks, organized under the laws of this or any other State or the United States. Such banks as are taxable under the provisions of §§ 65-401 to 65-406 are not included. (1957 (50) 404; 1960 (51) 1779.)

§ 65-422. *"Net income" defined.* — The term "net income," as used in this chapter, shall mean income after deducting all operating expenses, deductions allowed to other corporations, all earnings paid to holders of savings or investment accounts, and any additions to

reserves which appropriate surplus may be allowed for purposes other than hereinafter provided. Reserves, if accumulated by associations

§ 65-423. Tax on business within net income from or Federal bond tax shall be equal to income. (1957

§ 65-424. Exemption provisions of operation. The employees' credit

§ 65-425. Tax on tax provided by taxes on such property. The rate at the place where individuals. (1957

§ 65-426. Activities, etc.—For the purpose of this chapter 5 of the Code adopted and amended by (51) 1779.)

§ 65-427. Code and regulations administered by the State shall be required for the purpose of this chapter, and shall have the effect of law. (1957

§ 65-428. Returns shall be filed with the State

reserves which are required by law, regulation, or direction of appropriate supervisory agencies. No deductions from income shall be allowed for any additions to undivided profits or surplus accounts other than herein required, and for the purposes of this chapter, a state-organized association shall be allowed the same deductions for reserves, if actually set aside, as those allowed to Federally organized associations. (1957 (50) 404; 1960 (51) 1779.)

§ 65-423. Tax imposed; rate.—Every association located or doing business within this State shall pay an income tax measured by its net income from all sources, except for income from municipal, state or Federal bonds or securities exempted by law from such tax. The tax shall be equivalent to eight per cent of the amount of the net income. (1957 (50) 404; 1960 (51) 1779.)

§ 65-424. Exemptions.—Associations shall be exempt from the provisions of this chapter during the first three years of their operation. The provisions of this chapter shall not apply to employees' credit unions. (1957 (50) 404; 1960 (51) 1779.)

§ 65-425. Tax to be in lieu of certain other taxes.—The income tax provided in this chapter shall be in lieu of any and all other taxes on such associations, except use taxes and taxes on real property. The real property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals. (1957 (50) 404; 1960 (51) 1779.)

§ 65-426. Administration, enforcement, collection, liens, penalties, etc.—For the purpose of administration, enforcement, collection, liens, penalties, and other similar provisions, all of the provisions of chapter 5 of this Title that may be appropriate or applicable are adopted and made a part of this chapter. (1957 (50) 404; 1960 (51) 1779.)

§ 65-427. Chapter to be administered by Commission; rules and regulations.—The income tax imposed by this chapter shall be administered by the State Tax Commission. The Commission shall make such rules and regulations not inconsistent with law as may be required for the proper administration and enforcement of this chapter, and such rules and regulations shall have full force and effect of law. (1957 (50) 404; 1960 (51) 1779.)

§ 65-428. Returns.—Returns with respect to the income tax herein imposed shall be in such form as the Commission may prescribe. Returns shall be filed with the Commission on or before the fi-

SOUTH DAKOTA

**Franchise Tax on Banks and Financial Corporations
For Calendar Year 19__**

IMPORTANT

Deductions
Not Supported
By Completed
Schedules
Will Be
Disallowed.
Instructions
Page 6
Art. 2803,
Regulations

or Fiscal Year beginning _____, 19__ and ended _____, 19__

(Name)		Small Loan License No.
(Address)	(Zip Code)	
(Post Office)	(State)	(County)

Examined
Posted

Address of Principal Office in South Dakota _____
 Kind of Business _____ Date of Incorporation _____ Under the Laws of What State? _____
 Is this a Subsidiary Corporation or parent to subsidiaries? _____ If so, list names and addresses of all corporations
 so related _____

27. TOTAL DEDUCTIONS _____ If you included in this return the income of these affiliated companies?

28. NET INCOME (Item 12 minus Item 27) _____ \$ _____

AMOUNT OF INCOME \$ _____ at the rate of 5 3/8% TAX \$ _____

MINIMUM \$24.00 ON ALL RETURNS.

DELINQUENT RETURNS MUST INCLUDE 1% PER MONTH INTEREST AND 5% PENALTY.

ATTACH REMITTANCE PAYABLE TO COMMISSIONER OF REVENUE, AND

MAIL TO DEPARTMENT OF REVENUE, PIERRE, S. DAK. WITHIN 90 DAYS OF CLOSE OF TAX YEAR.

DO NOT WRITE IN THIS SPACE. FOR CASHIER'S VALIDATION.

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer) of the corporation for which this return is made, being severally duly sworn, each for himself deposes and says that this return, including the accompanying schedules and statements, has been examined by him, and is, to the best of his knowledge and belief a true complete return, made in good faith, for the taxable year stated pursuant to SDCL 10-13, and the rules and regulations thereunder.

Sworn to and subscribed before me this _____ day of _____, 19__

NOTARIAL
SEAL

(Signature of officer administering oath)

CORPORATE
SEAL

(President or other principal officer) (State title)

(Title)

(Treasurer or Assistant Treasurer) (State title)

INSTRUCTIONS FOR FILING FRANCHISE TAX RETURNS
INSTRUCTIONS 1 TO 29 CORRESPOND WITH ITEMS ON PAGE 1.

COMPLETE STATEMENT ON PAGE 3 SHOWING TAX OF PARENT AND BRANCH OFFICES.

ART. 2803. DEDUCTIONS NOT SUPPORTED BY COMPLETED SCHEDULES WILL NOT BE ALLOWED.

- (1) **Interest on Bank Deposits, Loans and Securities.** Enter as Item 1 all interest received during the taxable year on loans, bank deposits, notes, mortgages, bonds, stocks, etc. Include interest upon the obligations of the United States, its subdivisions, possessions, agencies or instrumentalities, SDCL 10-13, 10-13-7, 10-13-8.
- (2) **Rents and Royalties from Property.** Enter as Item 2 the gross amount received for rent or royalty from tangible personal property. Deductions claimed for repairs, interest, taxes, depreciation and other expenses should be included in Items 15, 16, 18, and 20.
- (3) **Insurance Commissions.** Enter as Item 3 the gross amount of insurance commissions and fees.
- (4) **Dividends.** Enter as Item 4 all dividends received during the taxable period, whether received in cash or in property, from any corporation wherever located. Stock dividends are not taxable when received. Liquidating dividends should be regarded as recovery of the stockholder's investment in his stock until the distributee shall have received an amount in excess of the applicable loss or gain basis of the stock in respect to which the distribution is received.
- (5) **Profit or Loss from Sale of Stocks and Bonds.** Enter as Item 5 the profit or loss from the sale of stocks and bonds during the taxable year. Full detail must be given in Schedule (A) on page 5. Enter loss in red figures.
- (6) **Recoveries of Bad Debts.** Enter as Item 6 the amount of bad debts recovered during the taxable year which originated subsequent to January 1, 1925, and were charged off and taken as a deduction on prior Franchise Tax Returns. Attach itemized schedule. Recoveries of bad debts which were charged off prior to January 1, 1925, are not to be included, but must be shown as non-taxable income in Schedule (II) on page 3.
- (7) to (11) **Other Income.** Enter under Items 7 to 11 all other income for which no space has been provided in the Return, and received during the taxable year. This should include float charges, exchange, commissions, etc.
- (12) **Total Gross Income.** Enter as Item 12 the total amount of Items 1 to 11 inclusive.
- (13) **Compensation of Officers.** Enter as Item 13 the compensation of all officers, in whatever form paid and fill in Schedule (b) giving the information requested. Include officers and directors only.
- (14) **Rent.** Enter as Item 14 rent paid for business property in which the corporation has no equity.
- (15) **Repairs.** Enter as Item 15 the cost of incidental repairs including labor and other items which do not add to the value or appreciably prolong the life of the property. Enter as salaries and wages the compensation during the period covered by this return to persons employed directly in connection with these incidental repairs as shown in Schedule (C). Expenditures for any buildings, machinery, equipment, fixtures or for permanent improvements or betterments which increase the value of the property are chargeable to capital account and subject to straight line depreciation for the life of the property.
- (16) **Interest.** Enter as Item 16 interest paid on business indebtedness. Foreign corporations whose dividends and interest income follows a domicile outside of South Dakota may deduct only that amount of interest expense which is in excess of the total amount of dividend and interest income.
- (17) **Amortization of Bond Premium.** Enter as Item 17 the amount of bond premium deductible as explained on bottom of page 5.
- (18) **Taxes.** Enter as Item 18 taxes paid or accrued within the income year, imposed by the United States or any of its possessions, by any State, territory or the District of Columbia; except inheritance taxes, and EXCEPT THE FRANCHISE TAX IMPOSED BY THIS CHAPTER and taxes assessed for local benefit of a kind intending to increase the value of the property assessed.
PROVIDED: On taxes paid outside the State of South Dakota only such taxes as are paid on property, or on moneys and credits, the income from which is taxable under this chapter, may be deducted.
Federal income tax, on business within and without South Dakota, may be deducted on a ratio of South Dakota income to total income.
Import or tariff duties paid to the proper custom officers and business, license, privilege, excise and stamp taxes, paid to the internal revenue collectors and similar taxes paid to the State of South Dakota, are deductible as taxes, provided they are not added to or made part of the expenses of the business or the cost of articles or merchandise with respect to which they are paid, in which case they cannot be separately deducted.
- (19) **Bad Debts, Schedule (B).** Enter as Item 19 debts which have been definitely determined to be worthless and charged off during the tax year. No deduction may be taken for bad debts which were contracted prior to January 1, 1927, nor for bad debts which arise from transactions not directly connected with the taxpayer's business. Such items must be shown as unallowable deductions in Schedule (B) on page 3. Real estate or personal property obtained through mortgage foreclosure are considered to be merely a step in the collection of a debt and gains or losses arising therefrom assume the same status as the original debt. No bad debts reserve can be used. AGR 1917-18; 333.
- (20) **Depreciation, Straight line only.** Enter as Item 20 the amount of deductible depreciation as shown by Schedule (F). A reasonable allowance for the depreciation, exhaustion, wear and tear and obsolescence of property used in trade or business will be computed on the basis of the cost of such property, except where the property was acquired prior to January 1, 1929, in which case the basis will be the cost less reason-

STATE OF TENNESSEE DEPARTMENT OF REVENUE

FRANCHISE AND EXCISE TAX RULES AND REGULATIONS

Promulgated Pursuant to Sections 67-2721 and 67-2519, Tennessee Code Annotated

to proration. The franchise tax will be prorated to cover the proportionate part of the year covered by the return.

10. SURRENDER OF CHARTER OR WITHDRAWAL — When surrender of charter or withdrawal from the State of Tennessee is desired, intention must be expressed to the Secretary of State or to this department by the filing of proper application for surrender or withdrawal. Upon the filing of proper returns and payment of all corporation taxes to such date of application whether or not actively engaged in business a certificate will be issued by this department to the Secretary of State acknowledging the right of the corporation to surrender or withdraw.

A corporation will be required to file a return or returns, as the case may be, based on all fiscal closings. The excise tax will be based on all earnings of the corporation and will not be subject to proration. The franchise tax will be prorated according to the proportionate part of year covered by each return. The proper measure of the franchise tax will be determined by using the closing near date of surrender, withdrawal or a closing associated with or immediately preceding merger, liquidation or consolidation. In all cases corporations must submit schedule of liquidation, distribution or disposition of all assets.

11. DIVIDENDS PAID TO RESIDENTS OF TENNESSEE — Dividends paid, accrued or credited to residents of Tennessee during the last calendar year shall be reported on forms prescribed by the department, as required by Section 67-2613, T.C.A.

12. REAL AND TANGIBLE PERSONAL PROPERTY — In Schedule I, Page 3 of the return, the value of both real and tangible personal property including inventories, leaseholds and leasehold improvements located in Tennessee and the value of such properties located everywhere should be shown less depreciation, amortization and depletion reserves determined according to good accounting practice.

13. FEDERAL INCOME REVISIONS — All federal income revisions must be shown in Schedule K of Page 3 of the return under the section titled "Federal Income Revisions." If there have been no adjustments, the word "none" shall be inserted in this space. If proposed adjustments not been accepted full particulars must be made known.

14. TREASURY STOCK — In determining capital stock issued and outstanding as required on Page 1 at Line 1, A, treasury stock shall not be deducted.

15. INDEBTEDNESS — ADEQUACY OF CAPITAL — The amount of indebtedness to be included on Line 1, C, of Page 1 of the return shall exceed the greater of the following amounts: (1) Excess of indebtedness over quick assets (cash, receivables, marketable investments), (2) Excess of capital assets (per ending balance sheet of return) over net worth (including surplus reserves). If quick assets exceed indebtedness and net worth exceeds capital assets, the capital is adequate and no part of such indebtedness need be included. If capital is inadequate a schedule of determination must accompany return.

16. RESERVES — All reserves and allocations of surplus which do not represent definite and accrued legal liabilities or proper reductions in net accounts must be included at Line 1, D, Page 1, in determining the measure of the franchise tax. This shall include the entire reserves and debts as permitted under the Federal Internal Revenue Code. Unrealized profits resulting from installment sales from personal tangible property must be included as a part of surplus but the federal taxes that would be due on the reserve account alone, in the reported year, may be deducted.

17. GROSS PREMIUMS TAX — As the gross premiums tax paid may be used as a direct credit against the total franchise-excise tax, it may also be used as an expense in computation of the excise tax base.

18. DEPLETION — No depletion or amortization expense will be allowed as a deduction against earnings or surplus unless the taxpayer has title to or a lease on the property being depleted or amortized, and such interest is represented by a capital expenditure carried on the books and records of such corporation. Annual depletion or amortization, when allowable, must be computed according to the prorata life of the property being depleted or according to an approved method based on unit cost depletion. In no event will depletion or amortization be allowed until the actual recovery of cost.

19. CAPITAL GAINS AND LOSSES — The entire amount of capital gains and losses must be considered in the fiscal period in which such gains or losses occur; provided, however, there will be no recognition of gain if property is compulsorily or involuntarily converted as a result of destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof to the extent that proceeds therefrom are applied toward the purchase of similar property within eighteen months and newly acquired property is assigned the same basis as the property originally held.

20. TAXABLE INCOME — All income, regardless of nature or source (including all interest and dividends from federal, state, county, municipal and other securities except those of the State of Tennessee and its political subdivisions) must be included in the measure of the excise tax. Foreign corporations may deduct nonapportionable income as hereinafter described (see Rule 21), but there can be no nonapportionable income for domestic corporations.

21. NONAPPORTIONABLE INCOME — For foreign corporations nonapportionable income is that income derived from sources or property located outside of Tennessee and unrelated to Tennessee operations, as determined by the commissioner, and may be deducted in arriving at net earnings for excise tax purposes. Such deductions will be net, after related expenses, and all property, costs, sales or receipts in connection therewith shall be excluded in the determination of ratios in Form P.E.T. 13. Foreign corporations whose commercial domicile is Tennessee may deduct only income as is derived from unrelated real or tangible personal property outside of Tennessee.

A. There shall be excluded from "net earnings" dividends received from any other corporation paying excise tax under the provisions of this chapter where such other corporation is a wholly owned subsidiary of the taxpayer.

B. All entities enumerated hereinabove and taxable under this section may carry their current year's losses forward two (2) years in computing net earnings subject to said tax.

C. There shall be excluded from "net earnings" any income derived from bonds or other such obligations of the state of Tennessee, its instrumentalities or political subdivisions, including but not limited to counties, municipalities, utility districts, school districts and public authorities.

D. There shall be excluded from "net earnings" of any organization or trust which qualifies as either a regulated investment company under the provisions of U.S.C., title 26, § 851, or as a real estate investment trust under the provisions of U.S.C., title 26, § 856, that portion of its net earnings which is distributed to its shareholders during the income year or (i) with respect to a regulated investment company within thirty (30) days after the end of the income year and (ii) with respect to a real estate investment trust by the time required by law for the filing of its return for the income year including the period of any extension of time granted for filing such return, in accordance with regulations promulgated by the commissioner of revenue.

Every such taxable entity organized and existing under and by virtue of the laws of this or any other state, territory or country, or organized and existing without any specific statutory authority, now or hereafter doing business within this state, without domesticating or qualifying to do business in this state, or while its charter is forfeited, revoked or suspended, shall as a recompense for the protection of its local activities and as compensation for the benefits it receives from doing business in Tennessee, pay the tax imposed by this chapter.

Any corporation organized under the laws of the state of Tennessee whose sole expressed corporate purpose is for the furthering of industrial development in communities throughout the state, and doing related matters thereto, and whose stockholders receive no income other than interest or dividends on money invested in said corporation for constructing industrial buildings and whose officers receive no compensation shall be exempt from the payment of franchise and excise taxes.

Notwithstanding the provision of § 45-233, state chartered banks shall be subject to this chapter for the year 1969. It is declared the legislative intent in levying the taxes provided for herein that all taxes shall be applicable equally to state and national banks. [Acts 1923, ch. 21, § 1; Shan. Supp., § 723a14; Acts 1927, ch. 44, § 1; mod. Code 1932, § 1216; Acts 1937, ch. 99, § 1; 1957, ch. 176, § 1; C. Supp. 1959, § 1316; Acts 1951, ch. 140, § 1; 1955, ch. 135, § 1; impl. am. Acts 1959, ch. 9, § 14; Acts 1963, ch. 33, § 1; 1963, ch. 272, § 1; 1967, ch. 189, § 1; 1970 (Adj. S.), ch. 446, §§ 1, 5, 7; 1971, ch. 104, § 1; 1971, ch. 133, § 1; 1971, ch. 383, § 1.]

Compiler's Notes. Acts 1971, ch. 104, § 2 stated that the increased tax rate cent (5%) to six per cent (6%) and increased the tax rate from five per

levied shall be applicable thereafter to taxes which and payable with all cor- year closings occurring af- 1971.

Acts 1971, ch. 133, pro- tax rate of five per cent. stated that this Act shall as to all corporate closing- the effective date of the 1971).

Acts 1971, ch. 283, incre- rate back to six per cent. stated that this Act shall and the increased tax rate shall be applicable initial- after to taxes which be- payable with all corporate closings occurring on or af- 1971, the public welfare re-

Amendments. The 1970 co- sserted "and all national business in Tennessee" in th- graph, added the final a- first paragraph, and add- paragraph.

The 1971 amendment, ch- tuted the words and fig- cent (5%)" for "five per- following the words "equal first paragraph of the s-

The 1971 amendment, co- stituted the first paragraph divisions A-D of the s- graph which read: "All cooperatives conducted for stock associations and bus- organized under the laws of other than those organized welfare and net for profit entities organized under any other state or country and doing business in Tenn- national banks doing busi- nessee, shall, without excep- the commissioner of revenue an excise tax, in addition taxes, equal to five per cent the net earnings for their fiscal year, from business of the state; provided, however, ings shall not include div- ceived from any other corpo- ing excise tax under the pr- this chapter, where such st- tion is a wholly owned sub- taxpayer; provided further, entities enumerated hereinab-

ANALYSIS

1. Constitutionality.
2. Construction.
3. Application of tax.
4. Calculation of tax.
5. Nature of tax.

67-2634. Rules and regulations.—The commissioner of revenue is further authorized and empowered to make all necessary rules and regulations not inconsistent with the terms of this chapter, which rules and regulations shall have the force and effect of law, for the purpose of fully carrying out and giving effect to the provisions of this chapter. [Acts 1931 (2nd E. S.), ch. 20, § 15; C. Supp. 1950, § 1123.31; impl. am. Acts 1959, ch. 9, § 14; Acts 1963, ch. 271, § 3.]

Compiler's Note. Former § 67-2640 as renumbered § 67-2627 and former § 67-2640 is renumbered § 67-2634.

67-2635. Penalty for violation of rules or failure to file return.—Any person failing to file a return, as required by § 67-2614, or any person violating any rule or regulation that may be promulgated by the commissioner of revenue under the authority vested in him in this chapter, or any corporation failing to furnish the information required by § 67-2613 shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500) for each offense. [Acts 1931 (2nd E. S.), ch. 20, § 16; C. Supp. 1950, § 1123.32; Acts 1955, ch. 125, § 4; impl. am. Acts 1959, ch. 9, § 14; Acts 1963, ch. 271, § 3.]

Compiler's Note. Former § 67-2635 as renumbered § 67-2629 and former § 67-2641 has been renumbered § 67-2635.

67-2636—67-2641. [Transferred.]

Compiler's Note. These sections have been transferred to §§ 67-2630—67-2635.

CHAPTER 27—EXCISE TAX ON CORPORATE EARNINGS

SECTION.		SECTION.	
67-2701.	Corporations subject to tax—Rate.	67-2716.	Date payment due—Penalty—Extension of time.
67-2703.	No credit for other taxes—Exception.	67-2718.	Issuance of distress warrant.
67-2710.	Apportionment on basis of gross receipts or net earnings.	67-2719.	Execution of warrant on personal property.
67-2711.	Variation from standard apportionment formulas.	67-2720.	Levy of warrant on realty.
		67-2725—67-2727.	[Unconstitutional.]

67-2701. Corporations subject to tax—Rate.—All corporations, co-operatives conducted for profit, joint-stock associations and business trusts, including regulated investment companies and real estate investment trusts, organized under the laws of this state, other than those for general welfare and not for profit, and all such entities organized under the laws of any other state or country for profit and doing business in Tennessee and all national banks doing business in Tennessee, shall, without exception, pay to the commissioner of revenue annually an excise tax, in addition to all other taxes, equal to six per cent (6%) of the net earnings for their next preceding fiscal year, from business done within the state. The term "net earnings" shall be subject to the following adjustments:

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ing upon the basis of which the net income is computed. The term "received" for the purpose of the computation of net income, means "received or accrued," and "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed.

(8) The term "dividend" means any distribution made by a bank or corporation to its shareholders whether in money or in other property out of its earnings or profits accumulated after December 31, 1930.

(9) The term "stock" includes the share or unit of ownership in a corporation as hereinabove defined.

(10) The term "shareholder" includes stockholder, member, associate or beneficiary in any corporation as hereinabove defined.

(11) The terms "includes" and "including" when used in a definition contained in this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

59-13-2. Rate and base of tax — As to national banks. — Every national bank or national banking association located within this state shall annually pay to the state a tax equal to six per cent of its net income for the next preceding taxable year, computed and allocated to this state in the manner hereinafter provided.

The state is hereby adopting the method numbered (4) authorized by the act of March 25, 1926, amending section 5219 of the Revised Statutes of the United States. (As amended 1955)

59-13-3. State Banks and other corporations — Minimum tax. — Every bank or corporation, other than a national bank and corporation exempted in section 59-15-4, for the privilege of exercising its corporate franchise or for the privilege of doing business in the state, shall annually pay to the state a tax equal to six per cent of its net income for the preceding taxable year computed and allocated to this state in the manner hereinafter provided, but in no case shall the tax be less than \$25; provided, that the taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed in this act for the payment of the tax by the taxpayer, the second installment shall be paid on the 15th day of the sixth month, the third installment on the 15th day of the ninth month, and the fourth installment on the 15th day of the twelfth month, after the close of its taxable year. If any installment is not paid on or before the date fixed for its payment, the whole amount of

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all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, upon dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by state law or a reasonable reserve for any necessary purpose.

(11) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this chapter.

(12) Federal land banks, national farm-loan associations and federal intermediate credit banks and other federal agencies.

(13) Employees' voluntary beneficial associations providing for the payment of life, sick, accident or other benefits to members, or their dependents, if

(a) No part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and

(b) Eighty-five per cent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses.

(14) Teachers' retirement association of purely local character, if

(a) No part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(b) The income consists solely of amounts received from public taxation, amounts received from assessments upon the teaching salaries of members, and income in respect of investments.

(15) Insurance companies which are otherwise taxed upon their premiums.

(16) Corporations whose sole business consists of holding the stock of other corporations for the purpose of controlling the management of affairs of such other corporations, if such other corporations make returns under this chapter.

59-13-5. Gross Income.

Defined.

(1) "Gross income" includes gains, profits and income derived from services, of whatever kind in whatever form paid, or from trades, businesses, commerce or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from

interest, rent dividends or securities or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever.

Exclusions from Gross Income.

(2) The following items shall not be included in gross income in computing the tax under this chapter.

Life Insurance.

(a) Amounts received under a life insurance contract paid by reason of the death of the insured, whether in a single sum or in installments (but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income).

Annuities or Endowments.

(b) Amounts received (other than amounts paid by reason of the death of the insured and interest payments on such amounts) under a life insurance endowment or annuity contract, but if such amounts (when added to amounts received before the taxable year under such contract) exceed the aggregate premiums or consideration paid (whether or not paid during the taxable year), then the excess shall be included in gross income. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance, endowment or annuity contract, or any interest therein, only the actual value of such consideration and the amount of the premiums and other sums subsequently paid by the transferee shall be excluded under this subsection or subsection (2) (a) of this section.

Gifts, Bequests and Devises.

(c) The value of property acquired by gift, bequest or devise (but the income from such property shall be included in gross income).

Use of Inventories.

(3) Whenever in the opinion of the tax commission the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the tax commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business, and as most clearly reflecting the income.

Distributions by Corporations.

(4) Distributions by corporations shall be included in gross income of the shareholders as provided in section 59-13-14.

Determination of Gain or Loss.

(5) In the case of a sale or other disposition of property, the gain or loss shall be computed as provided in sections 59-13-11, 59-13-12 and 59-13-13.

59-13-6. ...
the gross income
deductions allowe

59-13-7. D
net income the
Expenses.

(1) All
curred during
including a re
pensation for
or other paym
continued use
of property to
taking title or

* Interest Paid.

(2) All
on indebtednes
to purchase or
upon which is
Taxes Paid.

(3) Tax
except —

(a)

(b)

tending to inc
vided, that so
tenance or int

Taxes of Share

(4) The
shall be allow
holder of a ba
holder which ar
imbursement fr

Losses Sustain

(5) Loss
compensated for

The basis
for losses sust
be the same as
the gain or loss

Bad Debts.

(6) Debts
within the tax
mission, a res
and when satisf
tax commission