NEW YORK STATE | Department of Taxation and Finance

Important

Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.

For additional information concerning the Article 32 repeal, see Transitional Filing Provisions for Taxpayers Affected By Corporate Tax Reform Legislation.

This TSB-M begins on page 2 below.

Insert added on February 16, 2024.

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

TSB-M-78 (19)C
Corporation Tax
Instructions and Interpretations Section
September 8, 1978

Subject: Allocation of Home Office Expenses for Bank Corporations

The following question has been raised concerning Article 32 (Franchise Tax on Banking Corporation) of the Tax Law.

Question:

> Is it proper for a taxpayer to allocate home-office expenses to its foreign branches for book purposes but not for purposes of computing foreign branch net income when, in determining New York entire net income, the foreign branch net income is deducted from Federal taxable income as income derived from business carried on without New York State?

Answer:

> NO. Foreign branch income must be reduced by: one, those home-office expenses which are directly attributable to the branch and two, those home-office expenses which are indirectly attributable to the branch in that proportion that average gross total assets of the branch bears to the average gross total assets of the taxpayer. In the case of a taxpayer which files on a consolidated basis, "gross total assets of the taxpayer" means gross total assets of such taxpayer on a separate basis, not the gross total assets of the consolidated group. Average gross total assets generally is computed on a quarterly basis where the taxpayer's usual accounting practice permits such computation.
> However, at the option of the taxpayer, a more frequent basis (such as monthly, weekly, or daily average) may be used. Where the taxpayer's usual accounting practice does not permit a quarterly or more frequent computation of average gross total assets, a semi-annual or annual computation may be used where no distortion of average gross total assets will result. Any method of determining average gross total assets which is adopted by the taxpayer on any return and accepted by the Tax Commission may not be changed on any subsequent return without prior consent of the Tax Commission.