



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Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.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

## **Article 32 - Franchise Tax on Banking Corporations**

Chapter 57 of the Laws of 2010 amended Article 32 of the Tax Law pertaining to the franchise tax on banking corporations. The purpose of the amendment is to conform the bad debt deduction allowed under Article 32 to that allowed for federal income tax purposes. As a result, the bad debt modifications previously required by the Business Tax Reform and Rate Reduction Act of 1987 (see TSB-M-87(17)C), and as amended by Chapter 411 of the Laws of 1996 (see TSB-M-96(1)C), have been eliminated. These changes are effective for taxable years beginning on or after January 1, 2010.

### **Banks subject to Tax Law section 1453(i)**

The following additions to federal taxable income (FTI) are no longer required when computing entire net income (ENI):

- The bad debt amount allowed as a deduction pursuant to Internal Revenue Code (IRC) section 166 (see Tax Law section 1453(b)(11)).
- For taxpayers subject to Tax Law section 1453(i), the 20% of the excess of the New York State bad debt deduction allowed pursuant to Tax Law section 1453(i) over the amount which would have been allowed if a bad debt reserve had been maintained for all tax years on the basis of actual experience (see Tax Law section 1453(b)(12)).

The following subtractions from FTI are no longer allowed when computing ENI:

- The recapture amount of the balance of the reserve for losses on loans pursuant to IRC section 585(c) that is included in FTI (see Tax Law section 1453(e)(13)).
- The amount included in FTI as a result of a recovery of a loan (see Tax Law section 1453(e)(14)).
- For banks subject to the provisions of IRC section 585(c), and not subject to Tax Law Section 1453(h), the amount determined pursuant to Tax Law section 1453(i) (see Tax Law section 1453(i)(1)).

In addition, the establishment and maintenance of a New York reserve for losses on loans is no longer necessary for banks subject to the provisions of section 1453(i)(1) (see Tax Law section 1453(i)(2)).

### **Thrift institutions (as defined in Tax Law section 1453(h)(1))**

The following addition to federal taxable income (FTI) is no longer required when computing entire net income (ENI):

- Any amount allowed as a deduction for federal income tax purposes pursuant to IRC sections 166, 585, or 593 (see Tax Law section 1453(h)(2)).

The following subtraction from FTI is no longer allowed when computing ENI for banks that currently are, or previously had been, subject to the bad debt provisions of Tax Law section 1453(h):

- Any amount included in FTI pursuant to IRC section 593(e)(2), and any amount included as a result of a recovery of or termination from the use of a bad debt reserve as defined in IRC section 593 as in existence on December 31, 1995, as a result of federal legislation enacted after December 31, 1995 (see Tax Law section 1453(e)(15)).

In addition, the following subtraction from FTI is no longer required when computing ENI:

- The amount of a reasonable addition to a New York reserve for bad debts (see Tax Law section 1453(h)(3)).

Based on the law changes above:

- The establishment and maintenance of a New York reserve for losses on loans is no longer necessary for thrift institutions (see Tax Law section 1453(h)(6)).
- Taxpayers ceasing to meet the definition of a thrift institution no longer need to include in ENI any amounts of their New York reserve for losses (see Tax Law section 1453(h)(9)).

#### **Net operating loss deduction under Tax Law section 1453(k-1)**

There is no longer a separate New York State deduction for bad debts allowed under either Tax Law section 1453(h) or 1453(i) for tax years beginning on or after January 1, 2010. Therefore, the excess deduction specified in Tax Law section 1453(k-1)(3) allowed to augment the federal net operating loss deduction allowed under IRC section 172 will no longer be allowed for loss years beginning on or after January 1, 2010. Any excess deduction amounts from loss years prior to January 1, 2010 are not affected.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.