



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Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.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

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

TSB-M-78 (11)C
Corporation Tax
Instructions and Interpretations Section
August 11, 1978

Subject: International Banking Facilities

On June 19, 1978, Chapter 288 of the laws of 1978 was enacted into law. The act allows a bank to create an "International Banking Facility" in New York State to conduct specific international banking business without incurring New York State Corporation Franchise Tax on income earned from that business.

The act allows as a deduction in the computation of entire net income (for purposes of New York State Franchise Tax on banking corporations), the amount of "adjusted eligible net income" derived from international banking activities.

In order to determine "adjusted eligible net income," eligible gross income must first be determined. The items and restrictions concerning eligible gross income are found in section 1453(f)(2) of Article 32 as amended by the laws of 1978. After the eligible gross income has been determined, then (1) the expenses (directly or indirectly) related to eligible gross income, (2) the ineligible funding amount, and (3) the floor amount are subtracted from eligible gross income to arrive at "adjusted eligible net income". It should be noted that the act also provides for the floor amount to be phased out over a 10 year period. For the specific formulas used to calculate the ineligible funding amount and the floor amount, please refer to subsection 1453(f)(5) and subsection 1453(f)(6), respectively, of Article 32 as amended by the laws of 1978.

If the adjusted eligible net income computation produces a loss, then the amount of such loss will be added to entire net income.

In addition, this act puts additional restrictions on the computation of the eligible business facility tax credit for banking institutions with regard to the adjusted eligible net income deduction. One of the restrictions requires that the "portion of employees wages, salaries and other personal service compensation attributable, directly or indirectly, to the production of adjusted eligible net income which is allowed as a deduction from entire net income" be excluded from the computation of the wage factor used in the wage computation of the eligible business facility tax credit. The other restriction requires "that portion of the value of property which is used in the production of adjusted eligible net income which is allowed as a deduction from entire net income" be excluded from the computation of the property factor used in the computation of eligible business facility tax credit.

TSB-M-78 (11)C
Corporation Tax
Instructions and Interpretations Section
August 11, 1978

THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND SHALL APPLY TO ALL TAXABLE YEARS ENDING ON AND AFTER SUCH DATE, BUT ONLY TO SUCH YEARS OR PORTIONS THEREOF WHICH OCCUR ON AND AFTER THE EFFECTIVE DATE OF THE NEW YORK STATE BANKING LAW OR REGULATIONS OF THE NEW YORK STATE BANKING DEPARTMENT WHICH CONFORM TO THE LAWS OF THE UNITED STATES OR REGULATIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO RESERVE REQUIREMENTS WITH RESPECT TO DEPOSITS RECEIVED BY AN INTERNATIONAL BANKING FACILITY FROM FOREIGN PERSONS AND RELATING TO THE PAYMENT OF INTEREST ON SUCH DEPOSITS.

Chapter 288 amends/adds to Article 32 of the laws of 1978 the following:

<u>Reference</u>	<u>Synopsis</u>
1450(c)	The meaning of "international banking facility".
1453(f)	The deduction of adjusted eligible net income from entire net income.
1453(f)(1)	Calculating of adjusted eligible net income.
1453(f)(2)	The items and restriction concerning eligible gross income.
1453(f)(3)	One of the items that should be deducted from eligible gross income (the expense or deduction attributable (directly or indirectly) to eligible gross income).
1453(f)(4)	The other two items (the ineligible funding amount and the floor amount) that are subtracted from eligible gross income.
1453(f)(5)	The formula to be used to compute the ineligible funding amount.
1453(f)(6)	The formula to be used to compute the floor amount.
1453(f)(7)	The event that eligible net income is a loss.
1453(f)(8)	The meaning of "foreign person" with respect to this act.
1456(b)(2)(B)	A restriction on the computation of the wage factor for the computation of the eligible business facility tax credit.
1456(b)(4)(C)	A restriction on the computation of the property factor for the computation of the eligible business facility tax credit.