



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Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.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

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

TSB-M-78 (18)C
Corporation Tax
Instructions and Interpretations Section
September 8, 1978

Subject: Capital Loss Deduction for Bank Corporations

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

Question:

Should a taxpayer which has a different consolidated group for New York State purposes than it has for Federal purposes be allowed the same amount of capital loss deduction on its New York State return as on its Federal return?

Answer:

NO. Federal rules apply on a proforma or "as if" basis. The corporations included in the New York consolidated return must recompute a Federal consolidated return before applying the principles of separate accounting. See the example on the reverse side.

EXAMPLE

FEDERAL CONSOLIDATED RETURN

	<u>Federal</u>	<u>A</u>	<u>B</u>	<u>C</u>		
				<u>Total</u>	<u>NY</u>	<u>London</u>
Ordinary Income	700,000	100,000	200,000	400,000	300,000	100,000
Capital Gains (Loss)	<u>100,000</u>	<u>150,000</u>	<u>100,000</u>	<u>(150,000)</u>	<u>(250,000)</u>	<u>100,000</u>
Total Income	800,000	250,000	300,000	250,000	50,000	200,000
Expenses	<u>500,000</u>	<u>100,000</u>	<u>100,000</u>	<u>300,000</u>	<u>200,000</u>	<u>100,000</u>
Taxable Income	300,000	150,000	200,000	(50,000)	(150,000)	100,000

CONSOLIDATED GROUP FOR NEW YORK STATE (Note: Corp. A does not qualify for inclusion in Article 32)

	<u>Federal</u> <u>(Proforma)</u>	<u>New York</u> <u>(CT-32C)</u>	<u>B</u>	<u>C</u>		
				<u>Total</u>	<u>NY</u>	<u>London</u>
Ordinary Income	600,000	500,000	200,000	400,000	300,000	100,000
Capital Gains (Loss)	<u>-0-</u>	<u>(100,000)</u>	<u>100,000</u>	<u>*(100,000)</u>	<u>*(200,000)</u>	<u>100,000</u>
Total Income	600,000	400,000	300,000	300,000	100,000	200,000
Expenses	<u>400,000</u>	<u>300,000</u>	<u>100,000</u>	<u>300,000</u>	<u>200,000</u>	<u>100,000</u>
Taxable Income	200,000	100,000	200,000	-0-	(100,000)	100,000

* B corporation had a \$100,000 net capital gain and C corporation had a \$150,000 net capital loss. In computing the Federal proforma consolidated return, a capital loss of \$200,000 for C corporation was used in place of the actual capital loss of \$250,000, and since capital losses cannot exceed capital gains, there is a \$50,000 capital loss carryback or carryforward for New York State purposes.