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Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.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-83 (9)C
Corporation Tax
March 9, 1983

Computation of the Alternative Minimum Tax Based on Interest or Dividends Paid or Credited to Depositors or Shareholders by Savings Banks and Savings and Loan Associations Issuing Net Worth Certificates under Title II of the "Garn-St. Germain Depository Institutions Act of 1982"

On October 15, 1982, the "Garn-St. Germain Depository Institutions Act of 1982" (the Act), Public Law 97-320, was enacted to provide financial assistance to certain thrift institutions. Sections 202 (12 USC 1729(f)(5)) and 203 (12 USC 1823(i)) of the Act state, in part:

> "During any period when a qualified institution has outstanding net worth certificates issued in accordance with this paragraph [subsection], such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits." (12 USC 1729(f)(5)(I) and 12 USC 1823(i)(9))

Under Article 32 of the Tax Law, Franchise Tax on Banking Corporations, one of the bases for computing the alternative minimum tax for savings banks and savings and loan associations is interest or dividends paid or credited to depositors or shareholders (Tax Law, section 1455(b)(2)). A taxpayer which is a "qualified institution" within the meaning of section 202 (12 USC 1729(f)(5)(B)) or section 203 (12 USC 1823(i)(2)) of the Act and has net worth certificates outstanding may adjust the calculation of this base of the alternative minimum tax by eliminating the interest or dividends paid or credited to depositors or shareholders on those days of the taxable year that such net worth certificates were outstanding.

Interest or dividends are considered paid or credited when they are credited to the account of or set apart for the depositor or shareholder. Amounts are not considered paid or credited solely because they may be withdrawn by the depositor or shareholder, so long as they are not credited to the depositor's or shareholder's account until either actual withdrawal or a specified crediting date. They are, however, paid or credited upon withdrawal or crediting. Thus, if a calendar year taxpayer which is a qualified institution issued net worth certificates on December 27, 1982, the interest or dividends that are paid or credited from December 27, 1982 through December 31, 1982 may be eliminated from the calculation of the alternative minimum tax based on interest or dividends for the taxable year 1982. Interest or dividends paid or credited by a taxpayer which is no longer a qualified institution or by a taxpayer which no longer has net worth certificates outstanding must be included in the calculation of the base from the date it ceases to be a qualified institution or the date it no longer has net worth certificates outstanding, whichever comes first.

When a savings bank or savings and loan association determines, pursuant to section 1455 of the Tax Law, whether its tax measured by entire net income is greater than its alternative minimum tax, the base measured by interest or dividends is determined after the adjustment provided by this memorandum. For computation of the alternative minimum tax based on interest or dividends, see TSB-M-78 (21) (C).