CHAPTER 13

Income Tax on Building and Loan Associations

CROSS REFERENCES

South Carolina Abandoned Buildings Revitalization Act, eligibility for credit, see Section 12‑67‑140.

**SECTION 12‑13‑10.** “Association” defined.

 For the purpose of this chapter, the word “association” includes any mutual or stock‑chartered corporation insured by the Federal Savings and Loan Insurance Corporation or any corporation subject to regulatory supervision by the Federal Home Loan Bank or the Savings and Loan Division of the State Board of Financial Institutions. Such banks as are taxable under the provisions of Sections 12‑11‑10 to 12‑11‑60 are not included.

HISTORY: 1962 Code Section 65‑421; 1957 (50) 404; 1960 (51) 1779; 1986 Act No. 422, Section 1.

Attorney General’s Opinions

A savings and loan association is to be taxed under Chapter 13 of Title 12 and not as a bank under Chapter 11 of the Title. 1981 Op Atty Gen, No 81‑4, p 13 (January 12, 1981) 1981 WL 96531.

**SECTION 12‑13‑20.** “Net income” defined.

 The term “net income”, as used in this chapter, means taxable income as determined for a regular corporation in Chapter 6 of this title after deducting all earnings accrued, paid, credited, or set aside for the benefit of holders of savings or investment accounts, any additions to reserves which are required by law, regulation, or direction of appropriate supervisory agencies, and a bad debt deduction. The bad debt deduction allowable for South Carolina income tax purposes is the amount determined under the Internal Revenue Code as defined in Section 12‑6‑40. No deductions from income are allowed for any additions to undivided profits or surplus accounts other than herein required, and for the purposes of this chapter, a state‑organized association is allowed the same deductions for bad debt reserves as those allowed to federally organized associations. Associations shall maintain the bad debt reserves allowed as a deduction pursuant to this section in accordance with the provisions of the Internal Revenue Code as defined in Section 12‑6‑40 and shall keep a permanent record. These provisions are controlling notwithstanding any other provision of law.

HISTORY: 1962 Code Section 65‑422; 1957 (50) 404; 1960 (51) 1779; 1986 Act No. 422, Section 2; 1987 Act No. 170, Part II, Section 25L; 2001 Act No. 89, Section 17, eff July 20, 2001, applicable to taxable years beginning after December 31, 2000.

NOTES OF DECISIONS

In general 1

1. In general

In calculating “net income” under Section 12‑13‑20, a savings and loan association was entitled to deduct the amounts which it actually set aside for its Federal Insurance Reserve, calculated under one of several permissible methods prescribed by the Federal Home Loan Bank Board, despite the fact that it could have chosen another permissible method of calculation and set aside a lesser amount to meet its reserve requirement. Lexington County Sav. & Loan Ass’n. v. South Carolina Tax Com’n (S.C.App. 1985) 285 S.C. 417, 329 S.E.2d 786. Taxation 3501

**SECTION 12‑13‑30.** Imposition of tax on net income; rate.

 Every association located or doing business within this State shall pay an income tax measured by its net income from all sources, except for income from municipal, state, or federal bonds or securities exempted by law from the tax, including interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successors, for those savings and loan associations which meet the qualified thrift lender test set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (P.L. 101‑73), as amended. The tax is six percent of the net income.

HISTORY: 1962 Code Section 65‑423; 1957 (50) 404; 1960 (51) 1779; 1987 Act No. 170, Part II, Section 25M; 1991 Act No. 125, Section 2; 1991 Act No. 168, Section 15.

Federal Aspects

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub.L. 101‑73, Aug. 9, 1989, 103 Stat. 183, see 12 U.S.C.A. Section 1811.

Library References

Taxation 3448, 3485, 3525.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1832, 1846, 1855.

LAW REVIEW AND JOURNAL COMMENTARIES

Power to Tax. 25 S.C. L. Rev. 473.

United States Supreme Court Annotations

State income tax as violating immunity of United States—Supreme Court cases. 103 L Ed 2d 1027.

**SECTION 12‑13‑40.** Exemptions.

 Associations shall be exempt from the provisions of this chapter during the first three years of their operation. The provisions of this chapter shall not apply to employees’ credit unions.

HISTORY: 1962 Code Section 65‑424; 1957 (50) 404; 1960 (51) 1779.

Library References

Taxation 3519.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1879 to 1881.

**SECTION 12‑13‑50.** Tax shall be in lieu of other taxes; exceptions.

 The income tax provided in this chapter shall be in lieu of any and all other taxes on such associations, except use taxes, deed recording fees, and taxes on real property. The real property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals.

HISTORY: 1962 Code Section 65‑425; 1957 (50) 404; 1960 (51) 1779; 1974 (58) 2030; 2003 Act No. 69, Section 3.F, eff June 18, 2003.

Library References

Taxation 3485.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1846.

Attorney General’s Opinions

Federal savings and loan associations are subject to net income taxation imposed by this chapter, to any use tax and to taxes on real property, and to no other taxation. 1969‑70 Op Atty Gen, No 2847, p 82 (March 4, 1970) 1970 WL 12137.

**SECTION 12‑13‑60.** Appropriate Chapter 6 provisions to govern enforcement and administration of tax.

 For the purpose of administration, enforcement, collection, liens, penalties, and similar provisions, all of the provisions of Chapter 6 of this title that are appropriate or applicable are adopted and made a part of this chapter, including the requirements of declaration and payment of estimated tax.

HISTORY: 1962 Code Section 65‑426; 1957 (50) 404; 1960 (51) 1779; 1987 Act No. 170, Part II, Section 2C; 2001 Act No. 89, Section 18, eff July 20, 2001, applicable to taxable years beginning after December 31, 2000.

Library References

Taxation 3554.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1925.

**SECTION 12‑13‑70.** Chapter shall be administered by Department of Revenue; rules and regulations.

 The income tax imposed by this chapter is administered by the South Carolina Department of Revenue. The department may make regulations not inconsistent with law as may be required for the proper administration and enforcement of this chapter, and the department’s regulations have full force and effect of law.

HISTORY: 1962 Code Section 65‑427; 1957 (50) 404; 1960 (51) 1779; 1993 Act No. 181, Section 125; 2003 Act No. 69, Section 3.G, eff June 18, 2003.

**SECTION 12‑13‑80.** Form and filing of returns.

 Returns with respect to the income tax herein imposed shall be in such form as the department may prescribe. Returns shall be filed with the department on or before the fifteenth day of the fourth month following the close of the accounting period of the association.

HISTORY: 1962 Code Section 65‑428; 1957 (50) 404; 1960 (51) 1779; 2016 Act No. 160 (H.4328), Section 4.C, eff April 21, 2016.

Editor’s Note

2016 Act No. 160, Section 4.E, provides as follows:

“E. This SECTION takes effect upon approval by the Governor and first applies to tax years beginning after 2015.”

Effect of Amendment

2016 Act No. 160, Section 4.C, substituted “fourth month” for “third month”.

Library References

Taxation 3539.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1834, 1903.

**SECTION 12‑13‑90.** Payment of tax.

 The income tax imposed by this chapter shall be paid in full to the department at the same time the return is filed.

HISTORY: 1962 Code Section 65‑429; 1957 (50) 404; 1960 (51) 1779.

Library References

Taxation 3554.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1925.

**SECTION 12‑13‑100.** Disposition of proceeds.

 All moneys collected by the department under the provisions of this chapter shall be deposited with the State Treasurer to the credit of the general fund.

HISTORY: 1962 Code Section 65‑430; 1957 (50) 404; 1960 (51) 1779.

Library References

Taxation 3564.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1927.