

CHAPTER 158. MUTUAL THRIFT INSTITUTIONS TAX

Sec.	
158.1.	Imposition of tax.
158.2.	Mutual thrift institutions.
158.3.	Net operating loss.
158.4.	Report and payment of tax; extensions.
158.5.	Settlement and resettlement of tax.
158.6.	Institutions exempt from other corporate taxes.

Authority

The provisions of this Chapter 158 issued under section 408 of the Tax Reform Code of 1971 (72 P. S. § 7408), unless otherwise noted.

Source

The provisions of this Chapter 158 adopted January 16, 1987, effective January 17, 1987, 17 Pa.B. 273, unless otherwise noted.

§ 158.1. Imposition of tax.

There is imposed on every mutual thrift institution located within this Commonwealth, an excise tax on the privilege of doing business in this Commonwealth, measured at the rate of 11 1/2% upon the annual net earnings or income of the institution. See section 1501 of the TRC (72 P. S. § 8501).

§ 158.2. Mutual thrift institutions.

As used in this chapter, mutual thrift institution or institution means every savings bank without capital stock incorporated by or under the statutes of the Commonwealth, every building and loan association, every savings and loan association incorporated under the statutes of this Commonwealth, every Federal savings and loan association incorporated under the statutes of the United States and every savings institution having capital stock incorporated by or under the statutes of this Commonwealth or under the statutes of the United States and located within this Commonwealth.

§ 158.3. Net operating loss.

(a) *General.* For the calendar year 1983 and fiscal year beginning in 1983 and each year thereafter, a net operating loss shall be allowed as a deduction and carried forward 3 succeeding years. Each prior year's loss shall be carried to the earliest year to which the loss may be first carried, and if not utilized in the 3 succeeding years, the loss will expire. A net operating loss deduction is permitted only to the extent of net earnings or income and may not be utilized in the current year to decrease net earnings or income below zero or to increase a net loss. The amount of a prior year's loss may be determined with respect to time limitations imposed with respect to the tax report for the year in which the net operating loss is claimed as a deduction against net earnings or income.

(b) *Change in ownership.*

(1) Under section 1052(e.1) of the TRC (72 P. S. § 8502(e.1)), in the case of a change in the ownership of a mutual thrift institution effected in a manner described in section 381 or 382 of the IRC (26 U.S.C.A. §§ 381 or 382), a net operating loss from a year prior to the change in ownership may be utilized, but subject to certain limitations provided in the IRC with respect to the use of net operating losses after a change in ownership shall apply for the purpose of computing the portion of the net operating loss carryover recognized for purposes of the Mutual Thrift Institutions Tax, whether the change is effected by purchase, liquidation, acquisition of stock or reorganization. The applicable limitations include limitations imposed by the IRC solely on account of a change in ownership, including, but not limited to, sections 269, 318 (insofar as it defines the scope of IRC 382), 381 and 382 of the IRC (26 U.S.C.A. §§ 269, 318, 381 and 382).

(2) Because the computation of income and loss for purposes of the tax differs in many respects from the computation of taxable income and loss for Federal and Pennsylvania Corporate Net Income Tax purposes, the carryover of losses is not limited by the Federal consolidated return regulations or section 338 of the IRC (26 U.S.C.A. § 338), providing for the considered termination of corporate existence upon the making of certain elections for Federal income tax purposes.

§ 158.4. Report and payment of tax; extensions.

(a) A mutual thrift institution closing its fiscal year upon December 31 shall annually, on or before April 15 of each year, make a report to the Department, setting forth the entire amount of net earnings or income or net operating loss received or accrued by the mutual thrift institution from sources during the preceding year.

(b) A mutual thrift institution closing its fiscal year books upon some other date shall make an annual report of net earnings or income or net operating loss received or accrued during its fiscal year on or before 105 days after the close of its fiscal year.

(c) A mutual thrift institution is required to make payment of Tentative Tax under Article XXX of the TRC (72 P. S. §§ 10001—10004). The remaining portion of tax due shall be paid at the time the tax report is required to be made.

§ 158.5. Settlement and resettlement of tax.

(a) *Settlement.* Settlement of tax due shall be made, so far as possible, so that notice thereof may be mailed to the institution before the end of the year succeeding the year for which the tax report was made. See section 801 of the FC (72 P. S. § 801). In the case of an institution which requests an extension of time in which to file its report, settlement shall be made, so far as possible, so that notice thereof may be mailed to the institution not later than 60 days after the end of the

year succeeding the year for which the tax report was made. In the case of a tax report which is filed after the original due date, or if an extension has been requested, after the extended due date, settlement shall be made, so far as possible, so that notice thereof may be mailed to the institution before the end of the year succeeding the year in which the report was filed with the Department.

(b) *Resettlement.* Within 90 days after the date upon which the copy of a settlement was mailed to the institution with which the settlement was made, the institution or the Commonwealth may file with the Department a petition for resettlement. See section 1102 of the FC (72 P. S. § 1102). Within 2 years of a settlement or resettlement, except those appealed from, the Department may resettle the tax due (see section 1105 of the FC (72 P. S. § 1105)). With respect to settlements or resettlements which have been appealed from, the Department is authorized to resettle under section 1105 of the FC if the Board of Finance and Revenue has not acted upon taxpayer's petition. If the Board of Finance and Revenue has acted upon taxpayer's petition, the Department will have authority to make a resettlement, if the resettlement does not negate and is consistent with the action of the Board of Finance and Revenue on an issue raised before the Board.

§ 158.6. Institutions exempt from other corporate taxes.

Institutions subject to the Mutual Thrift Institutions Tax are exempt from other corporate taxes imposed by the Commonwealth, including, but not limited to, the Corporate Net Income, Capital Stock—Franchise, Bank Shares and Corporate Loans Taxes.

[Next page is 159-1.]

158-4

(277052) No. 319 Jun. 01

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