

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

400A0252

## HOUSE BILL NO. 1033

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to revise the process for computing the net income of  
2 certain financial institutions for bank franchise tax collection purposes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-43-10.1 be amended to read as follows:

5 10-43-10.1. "Net income," in the case of a financial institution, is taxable income as defined  
6 in the Internal Revenue Code, as amended, and in effect on January 1, ~~1996~~ 1997, and reportable  
7 for federal income tax purposes for the taxable year, but subject to the adjustments as provided  
8 in §§ 10-43-10.2 and 10-43-10.3. If a financial institution has elected to file its federal tax return  
9 pursuant to 26 USC 1362(a), as amended, and in effect on January 1, 1997, net income shall be  
10 computed in the same manner and in the same amount as if that institution had continued to file  
11 its federal tax return without making the election and the financial institution shall continue to  
12 be treated as a separate corporation for the purposes of this chapter.

13 Section 2. That § 10-43-10.3 be amended to read as follows:

14 10-43-10.3. Subtracted from taxable income are:

15 (1) Interest and dividends from obligations of the United States government and its

1 agencies which this state is prohibited by federal law or treaty from taxing by an  
2 income tax, a franchise tax or a privilege tax;

3 (2) Dividends received from financial institutions subject to taxation under this chapter  
4 to the extent such dividends were included in taxable income as determined under the  
5 Internal Revenue Code;

6 (3) Taxes imposed upon the financial institution within the tax year, under the Internal  
7 Revenue Code excluding any taxes imposed under 26 USC 1374 and 26 USC 1375;

8 (4) Additional depreciation expenses to provide for the amortization of the excess, if any,  
9 of the remaining undepreciated tax basis as determined under the provisions of this  
10 chapter, over the depreciable basis as determined for federal tax purposes. Such  
11 excess shall be determined as of January 1, 1977, or on the first day of the first taxable  
12 year starting after January 1, 1977, and amortized over the remaining depreciable life  
13 of that asset or group of assets;

14 (5) Any interest expense described in §§ 291(e)(1)(B) and 265(b) of the Internal Revenue  
15 Code, which interest expense shall be deductible;

16 (6) The difference obtained by subtracting net income under the cash method of  
17 accounting from net income under the accrual method of accounting. If the difference  
18 is less than zero then the provisions of § 10-43-10.2 apply. This is an optional  
19 adjustment and is available only to financial institutions first doing business in South  
20 Dakota after January 1, 1987, or to financial institutions that are required to switch  
21 from the cash method of accounting to the accrual method of accounting under § 448  
22 of the Internal Revenue Code;

23 (7) Any meal expense and entertainment expense disallowed under § 274(n) of the  
24 Internal Revenue Code;

25 (8) Any capital gain from liquidating sales within the twelve-month period beginning on

1 the date on which a financial institution adopts a plan of complete liquidation if all of  
2 the assets of the financial institution are distributed in complete liquidation less assets  
3 retained to meet claims within such twelve-month period, or from the distribution of  
4 property in complete liquidation of the financial institution which is subject to federal  
5 corporate income taxes pursuant to § 336 of the Internal Revenue Code;

6 (9) Any adjustment to taxable income due to ~~the change from the reserve method of bad~~  
7 ~~debts to the specific charge-off method as required under Section 585(c) of the~~  
8 ~~Internal Revenue Code. This is effective for adjustments made in tax years beginning~~  
9 ~~after December 31, 1986~~ a change in the method used to compute the federal bad  
10 debt deduction where the adjustment has already been included in taxable income for  
11 purposes of the tax imposed by this chapter;

12 (10) For those financial institutions making an election pursuant to 26 USC 1362(a), as  
13 amended, and in effect on January 1, 1997, imputed federal income taxes in an  
14 amount equal to the taxes that would have been paid on net income as defined in  
15 § 10-43-10.1 had the financial institution continued to file its federal tax return  
16 without making an election to file pursuant to 26 USC 1362(a).

17 Section 3. This Act applies to all returns made pursuant to chapter 10-43 whose original due  
18 date for filing is on or after January 1, 1997.