Chapter 51

(Senate Bill 18)

An Act to repeal income modifications for the bank franchise tax pertaining to bad debts.

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

Section 1. That § 10-1-47 be AMENDED:

10-1-47. The terms "United States Internal Revenue Code" and "Internal Revenue Code" mean the United States Internal Revenue Code as amended and in effect on January 1, 2025. This section applies to §§ 10-4-9.1, 10-4-9.2, 10-4-9.3, 10-4-9.4, 10-4-39, 10-6-157, and 10-43-10.1, and subdivisions 10-6A-1(7), 10-6B-1(5), 10-18A-1(6), ~~10-43-10.3(6)~~ 10-43-10.3(5), and 10-45A-1(5).

Section 2. That § 10-43-10.2 be AMENDED:

10-43-10.2. Added to taxable income are:

(1) Interest or dividend income derived from obligations or securities of states or political subdivisions, or authorities thereof, not included in taxable income as determined under the Internal Revenue Code;

(2) All income taxes paid or accrued, as ~~the case may be~~ applicable, during the tax year under the provisions of ~~chapter 10-43~~ this chapter or under the provisions of any income tax, or franchise or privilege taxes measured by income levied by any other state or political subdivision to the extent that ~~such~~ the taxes were deducted to determine federal taxable income;

(3) ~~Bad debt deductions in excess of credits actually ascertained to be worthless and charged off within the tax year;~~

~~(4) Any amount subsequently received on account of a bad debt previously charged off as a deduction for tax purposes;~~

~~(5)~~ Any amount received as a refund of federal income taxes during the tax year if that amount was previously deducted in determining net income;

~~(6)~~(4) Dividends received from other corporations to the extent that ~~such~~ the dividends have been deducted from net income as determined under the Internal Revenue Code; ~~and~~

~~(7)~~(5) Any capital loss from ~~liquidating~~ :

(a) Liquidating sales within the twelve-month period beginning on the date on which a financial institution adopts a plan of complete liquidation, if all ~~of~~ the assets of the financial institution are distributed in complete liquidation, less assets retained to meet claims within the twelve-month period~~, or from the~~ ; or

(b) The distribution of property in complete liquidation of the financial institution ~~which~~ that is subject to federal corporate income taxes pursuant to § 336 of the Internal Revenue Code.

Section 3. That § 10-43-10.3 be AMENDED:

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

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

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

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

(4) Any capital gain from ~~liquidating~~ :

(a) Liquidating sales within the twelve-month period beginning on the date on which a financial institution adopts a plan of complete liquidation, if all of the assets of the financial institution are distributed in complete liquidation, less assets retained to meet claims within the twelve-month period~~, or from the~~ ; or

(b) The distribution of property in complete liquidation of the financial institution ~~which~~ that is subject to federal corporate income taxes pursuant to § 336 of the Internal Revenue Code;

(5) ~~Any adjustment to taxable income due to a change in the method used to compute the federal bad debt deduction where the adjustment has already been included in taxable income for purposes of the tax imposed by this chapter;~~

~~(6)~~ For those financial institutions making an election pursuant to 26 USC § 1362(a) of the United States Internal Revenue Code, as defined by § 10-1-47, imputed federal income taxes in an amount equal to the taxes that would have been paid on net income as defined in § 10-43-10.1 had the financial institution continued to file its federal tax return without making an election to file pursuant to 26 USC § 1362(a); and

~~(7)~~(6) For those financial institutions organized as limited liability companies, imputed federal income taxes in an amount equal to the taxes that would have been paid on net income as defined in § 10-43-10.1 had the financial institution elected to file as a subchapter C corporation under the Internal Revenue Code.

Signed February 13, 2026