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SC INFORMATION LETTER #94-35 (TAX)

SUBJECT: ADMINISTRATIVE PRONOUNCEMENT
Multistate Bank Income Tax Returns
(Income Tax)

DATE: December 20, 1994

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-11-20 (Supp. 1993)
S.C. Code Ann. Section 12-7-250 (Supp. 1993)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1993)
S.C. Revenue Procedure #94-1

SCOPE: An Information Letter is a document issued for the purpose of disseminating general information or information concerning an administrative pronouncement.

Information Letters issued to disseminate general information have no precedential value and do not represent the official position of the Department. Information Letters designated as administrative pronouncements represent the **official advisory opinion** of the Department.

Changes in federal law will result in a growing number of banks conducting a banking business both within and without this State ("multistate banks"). In South Carolina banks are taxed pursuant to Chapter 11 of Title 12 of the South Carolina Code of Laws. Code Section 12-11-40 applies certain provisions of Chapter 7 to banks. The general corporate income tax in Chapter 7 directs corporations that conduct their businesses within and without this State to pay tax upon an income base that reasonably represents the proportion of the trade or business carried on within this State. There has been some confusion as to whether these provisions of Chapter 7 apply to multistate banks for purposes of computing the bank income tax under Chapter 11.

For returns filed for years ending before 1997, the Department will accept multistate bank returns which are based upon the proportion of the bank's entire net income that reasonably represents the proportion of the bank's trade or business carried on within this State in the same manner as required of those corporations subject to the corporate income tax of Chapter 7 whose principal profits or income are derived from sources other than manufacturing, producing, collecting, buying, assembling, processing or selling, distributing or dealing in tangible personal property (i.e., the gross receipts method under Code Section 12-7-1190).

The Department generally intends that banks who follow this procedure will comply with rules similar to those used by multistate non-bank financial businesses, such as mortgage companies. The Department reserves the right to question on audit any specific method of allocation and apportionment of income employed by a multistate bank.