CHAPTER 11

Income Tax on Banks

CROSS REFERENCES

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

**SECTION 12‑11‑10.** “Banks” and “taxpayers” defined.

For the purpose of this chapter and unless otherwise required by the context, the words “banks” and “taxpayers”, whenever used in this chapter, shall mean any person engaged in a banking business, whether incorporated under the laws of this State, any other state or the United States or whether unincorporated, except cash depositories.

HISTORY: 1962 Code Section 65‑401; 1952 Code Section 65‑401; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762.

CROSS REFERENCES

Exemption from taxation of bonds and interest thereon issued by the South Carolina Jobs ‑ Economic Development Authority, see Section 41‑43‑130.

Regulation of banking, generally, see Section 34‑1‑10 et seq.

Tax on building and loan associations, cooperative banks, etc., see Section 12‑13‑10 et seq.

**SECTION 12‑11‑20.** Tax on income of banks; rate.

A tax is imposed upon every bank engaged in business in the State which shall be levied, collected and paid annually with respect to the entire net income of the taxpayer doing a banking business within this State or from the sales or rentals of property within this State, computed at the rate of four and one half per cent of the entire net income of such bank or taxpayer.

HISTORY: 1962 Code Section 65‑402; 1952 Code Section 65‑402; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762.

CROSS REFERENCES

Bank notes and stock exempt from taxes, see Section 12‑37‑220.

Constitutional rule that property subject to taxation shall be taxed in proportion to its value, see SC Const, Art X, Section 1.

Venture Capital Investment Act, definitions, see Section 11‑45‑30.

Library References

Taxation 3485, 3525.

Westlaw Topic No. 371.

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

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.

Attorney General’s Opinions

The license required by Section 12‑11‑20, et seq., of the 1976 Code (billiard rooms) is a regulatory and not a revenue measure within the intent and meaning of House Bill 2326. 1976‑77 Op Atty Gen, No 77‑212, p 166 (July 8, 1977) 1977 WL 24554.

**SECTION 12‑11‑30.** Income tax to be instead of other taxes; exceptions.

The income tax provided for in this chapter is instead of all other taxes on banks, except the use tax, the deed recording fee, and taxes on real property. The real property of a bank is taxed in the place where it is located.

HISTORY: 1962 Code Section 65‑403; 1952 Code Section 65‑403; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762; 1974 (58) 2029; 1998 Act No. 432, Section 7.

Library References

Taxation 3485.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1846.

Attorney General’s Opinions

The license required by Section 12‑11‑20, et seq., of the 1976 Code (billiard rooms) is a regulatory and not a revenue measure within the intent and meaning of House Bill 2326. 1976‑77 Op Atty Gen, No 77‑212, p 166 (July 8, 1977) 1977 WL 24554.

The tax imposed by Code 1962 Section 65‑403 [Code 1976 Section 12‑11‑30] upon banks is in lieu of a tax on the bank’s personal property. 1974‑75 Op Atty Gen, No 4201, p 248 (November 25, 1975) 1975 WL 22498.

**SECTION 12‑11‑40.** Appropriate Chapter 6 provisions shall govern enforcement, administration, allocation and apportionment of income tax on banks.

For the purpose of administration, allocation and apportionment, enforcement, collection, liens, penalties, and other similar provisions, all of the provisions of Chapter 6 of this title that may be appropriate or applicable are adopted and made a part of this chapter for the enforcement and administration of this chapter, including the requirement to make declarations of estimated tax and make estimated tax payments.

HISTORY: 1962 Code Section 65‑404; 1952 Code Section 65‑404; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762; 1987 Act No. 170, Part II, Section 2B; 1996 Act No. 248, Section 1.

Library References

Taxation 3533, 3554.

Westlaw Topic No. 371.

C.J.S. Taxation Sections 1903, 1925.

Attorney General’s Opinions

The license required by Section 12‑11‑20, et seq., of the 1976 Code (billiard rooms) is a regulatory and not a revenue measure within the intent and meaning of House Bill 2326. 1976‑77 Op Atty Gen, No 77‑212, p 166 (July 8, 1977) 1977 WL 24554.

**SECTION 12‑11‑50.** Payment of tax; deposit into general fund.

The taxes provided for in this chapter must be paid to the department as provided in Section 12‑11‑40 and the income tax paid under the provisions of this chapter must be deposited to the credit of the general fund of the State.

HISTORY: 1962 Code Section 65‑405; 1952 Code Section 65‑405; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762; 1991 Act No. 171, Part II, Section 22C.

Library References

Taxation 3554.

Westlaw Topic No. 371.

C.J.S. Taxation Section 1925.

Attorney General’s Opinions

The license required by Section 12‑11‑20, et seq., of the 1976 Code (billiard rooms) is a regulatory and not a revenue measure within the intent and meaning of House Bill 2326. 1976‑77 Op Atty Gen, No 77‑212, p 166 (July 8, 1977) 1977 WL 24554.

**SECTION 12‑11‑60.** Conditions rendering this chapter ineffective.

In case the first sentence of Section 12‑11‑30 should for any reason be declared to be invalid by a court of competent jurisdiction, the provisions of Sections 2663 through 2675, 2677 and paragraphs (33), (34) and (53) of Section 2578 of the Code of 1942 shall be and remain in full force and effect and the income tax provided in this chapter shall not be effective.

HISTORY: 1962 Code Section 65‑406; 1952 Code Section 65‑406; 1942 Code Section 2676; 1937 (40) 565; 1938 (40) 1762.

Attorney General’s Opinions

The license required by Section 12‑11‑20, et seq., of the 1976 Code (billiard rooms) is a regulatory and not a revenue measure within the intent and meaning of House Bill 2326. 1976‑77 Op Atty Gen, No 77‑212, p 166 (July 8, 1977) 1977 WL 24554.