

54:10A-4

LEGISLATIVE HISTORY CHECKLIST

NJSA: 54:10A-4, 54:10A-6, 54:10A-34

(Corporation Tax Act —
international banking facilities
- tax abatement)

LAWS OF: 1983

CHAPTER: 422

Bill No: S1003

Sponsor(s): Weiss, Lynch and Bornheimer

Date Introduced: February 8, 1982

Committee: Assembly: Revenue, Finance and Appropriations

Senate: Revenue, Finance and Appropriations

Amended during passage:

Yes

Substituted for A973 (not
attached since identical to
S1003)

Date of Passage:

Assembly: November 21, 1983

Senate: June 10, 1982

Date of Approval: January 5, 1984

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

No

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

New York law, referred to in statements:

N.Y. ,Taxation. section 1453 (McKinney)

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SENATE, No. 1003

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 8, 1982

By Senators WEISS, LYNCH and BORNHEIMER

Referred to Committee on Revenue, Finance and Appropriations

AN ACT to amend the "Corporation Business Tax Act (1945)", approved April 13, 1945, P. L. 1945, c. 162 (C. 54:10A-1 et seq.) and amending P. L. 1975, c. 170 (C. 54:10A-33 et seq.) to provide an exemption from taxation for international banking facilities.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 4 of P. L. 1945, c. 162 (C. 54:10A-4) is amended to
2 read as follows:

3 4. For the purposes of this act, unless the context requires a
4 different meaning:

5 (a) "Commissioner" shall mean the Director of the Division of
6 Taxation of the State Department of the Treasury.

7 (b) "Allocation factor" shall mean the proportionate part of
8 a taxpayer's net worth or entire net income used to determine a
9 measure of its tax under this act.

10 (c) "Corporation" shall mean any corporation, joint-stock com-
11 pany or association and any business conducted by a trustee or
12 trustees wherein interest or ownership is evidenced by a certificate
13 of interest or ownership or similar written instrument.

14 (d) "Net worth" shall mean the aggregate of the values dis-
15 closed by the books of the corporation for (1) issued and outstand-
16 ing capital stock, (2) paid-in or capital surplus, (3) earned surplus
17 and undivided profits, **and** (4) surplus reserves which can
18 reasonably be expected to accrue to holders or owners of equitable
19 shares, not including reasonable valuation reserves, such as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted October 18, 1982.

20 reserves for depreciation or obsolescence or depletion*¹, and (5)
21 the amount of all indebtedness owing directly or indirectly to
22 holders of 10% or more of the aggregate outstanding shares of
23 the taxpayer's capital stock of all classes, as of the close of a
24 calendar or fiscal year other than indebtedness which is a result
25 of a bona fide financing of motor vehicle inventory held for sale to
26 customers which financing is provided by a taxpayer customarily
27 and routinely providing for this type of financing. In the case of
28 financial business corporations which are funded through debt
29 from affiliated corporations, the debt to the affiliated corporations
30 is not to be considered as "net worth" and in the case of banking
31 corporations which are affiliates of bank holding companies, as
32 defined in 12 U.S.C. §1841, and which are funded through debt
33 from such bank holding companies, the debt to those bank holding
33A companies from its banking corporation affiliates is not to be
33B considered as "net worth." ²* * *Notwithstanding the foregoing,*
33C *net worth shall not include any deduction for the amount of the*
33D *excess depreciation described in paragraph (2) (F) of subsection*
33E *(k) of this section.** The foregoing aggregate of value shall be
33F reduced by 50% of the amount disclosed by the books of the
33G corporation for investment in the capital stock of one or more
33H subsidiaries, which investment is defined as ownership (1) of at
34 least 80% of the total combined voting power of all classes of
35 stock of the subsidiary entitled to vote and (2) of at least 80%
36 of the total number of shares of all other classes of stock except
37 nonvoting stock which is limited and preferred as to dividends.
37A In the case of investment in an entity organized under the laws
38 of a foreign country, the foregoing requisite degree of owner-
39 ship shall effect a like reduction of such investment from net
40 worth of the taxpayer, if the foreign entity is considered a
41 corporation for any purpose under the United States Federal
42 income tax laws, such as (but not by way of sole examples) for the
43 purpose of supplying deemed paid foreign tax credits or for the
44 purpose of status as a controlled foreign corporation. In calculat-
45 ing the net worth of a taxpayer entitled to reduction for investment
46 in subsidiaries, the amount of liabilities of the taxpayer shall be
47 reduced by such proportion of the liabilities as corresponds to the
48 ratio which the excluded portion of the subsidiary values bears
49 to the total assets of the taxpayer.

50 *In the case of banking corporations which have international*
51 *banking facilities as defined in subsection (n), the foregoing aggre-*
52 *gate of values shall also be reduced by retained earnings of the*
53 *international banking facility. Retained earnings means the earn-*

54 *ings accumulated over the life of such facility and shall not include*
55 *the pro rata share of dividends paid and federal income taxes paid*
56 *or payable during the tax year.*

57 If in the opinion of the commissioner, the corporation's books
58 do not disclose fair valuations the commissioner may make a rea-
59 sonable determination of the net worth which, in his opinion, would
59A reflect the fair value of the assets, exclusive of subsidiary invest-
59B ments as defined aforesaid, carried on the books of the corporation,
60 in accordance with sound accounting principles, and such determi-
61 nation shall be used as net worth for the purpose of this act.

62 (e) "Indebtedness owing directly or indirectly" shall include,
63 without limitation thereto, all indebtedness owing to any stock-
64 holder or shareholder and to members of his immediate family
65 where a stockholder and members of his immediate family to-
66 gether or in the aggregate own 10% or more of the aggregate
67 outstanding shares of the taxpayer's capital stock of all classes.

68 (f) "Investment company" shall mean any corporation whose
69 business during the period covered by its report consisted, to the
70 extent of at least 90% thereof of holding, investing and reinvesting
71 in stocks, bonds, notes, mortgages, debentures, patents, patent
72 rights and other securities for its own account, but this shall not
73 include any corporation which: (1) is a merchant or a dealer of
74 stocks, bonds and other securities, regularly engaged in buying the
75 same and selling the same to customers; or (2) had less than 90%
76 of its average gross assets in New Jersey, at cost, invested in
77 stocks, bonds, debentures, mortgages, notes, patents, patent rights
78 or other securities or consisting of cash on deposit during the period
79 covered by its report or (3) is a banking corporation or a financial
80 business corporation as defined in the Corporation Business Tax
81 Act.

82 (g) "Regulated investment company" shall mean any corpora-
83 tion which for a period covered by its report, is registered and
84 regulated under the Investment Company Act of 1940 (54 Stat.
85 789), as amended.

86 (h) "Taxpayer" shall mean any corporation required to report
87 or to pay taxes, interest or penalties under this act.

88 (i) "Fiscal year" shall mean an accounting period ending on
89 any day other than the last day of December on the basis of which
90 the taxpayer is required to report for federal income tax purposes.

91 (j) Except as herein provided, "privilege period" shall mean
92 the calendar or fiscal accounting period for which a tax is payable
93 under this act.

94 (k) "Entire net income" shall mean total net income from all

95 sources, whether within or without the United States, and shall
96 include the gain derived from the employment of capital or labor,
97 or from both combined, as well as profit gained through a sale or
98 conversion of capital assets. For the purpose of this act, the
99 amount of a taxpayer's entire net income shall be deemed prima
100 facie to be equal in amount to the taxable income, before net operat-
101 ing loss deduction and special deductions, which the taxpayer
102 is required to report to the United States Treasury Department
103 for the purpose of computing its federal income tax; provided,
104-105 however, that in the determination of such entire net income,
106 (1) Entire net income shall exclude 100% of dividends which
107 were included in computing such taxable income for federal income
108 tax purposes, paid to the taxpayer by one or more subsidiaries
109 owned by the taxpayer to the extent of the 80% or more owner-
110 ship of investment described in subsection (d) of this section. With
111 respect to other dividends, entire net income shall not ***[exclude]***
112 **include** 50% of the total included in computing such taxable
113 income for federal income tax purposes ***[;]*** **. Entire net income*
113A *shall exclude for the periods set forth in paragraph (2) (F) (i)*
113B *of this subsection, any amount, except with respect to property*
113C *described in section 168 (f) (8) (D) (iii) of the Internal Revenue*
113D *Code, which is included in a taxpayer's federal taxable income*
113E *solely as a result of an election made pursuant to the provisions*
113F *of paragraph (8) of that section;**
114 (2) Entire net income shall be determined without the exclusion,
115 deduction or credit of:
116 (A) The amount of any specific exemption or credit allowed in
117 any law of the United States imposing any tax on or measured by
118 the income of corporations;
119 (B) Any part of any income from dividends or interest on any
120 kind of stock, securities or indebtedness, except as provided in
121 subsection (k) (1) of this section;
122 (C) Taxes paid or accrued to the United States on or measured
123 by profits or income, or the tax imposed by this act, or any tax
124 paid or accrued with respect to subsidiary dividends excluded from
125 entire net income as provided in subsection (k) (1) of this section;
126 (D) Net operating losses sustained during any year or period
127 other than that covered by the report;
128 (E) 90% of interest on indebtedness owing directly or indirectly
129 to holders of 10% or more of the aggregate outstanding shares of
130 the taxpayer's capital stock of all classes; except that such interest
131 may, in any event, be deducted
132 (i) Up to an amount not exceeding \$1,000.00;

133 (ii) In full to the extent that it relates to bonds or other
 134 evidences of indebtedness issued, with stock, pursuant to a
 135 bona fide plan of reorganization, to persons, who, prior to
 136 such reorganization, were bona fide creditors of the corpora-
 137 tion or its predecessors, but were not stockholders or share-
 138 holders thereof;

139 (iii) In full to the extent that it relates to debt of a financial
 140 business corporation owed to an affiliate corporation; pro-
 141 vided that such interest rate does not exceed 2% over prime
 142 rate; the prime rate to be determined by the Commissioner of
 143 Banking;

144 (iv) In full to the extent that it relates to financing of motor
 145 vehicle inventory held for sale to customers providing said
 146 indebtedness is owed to a taxpayer customarily and routinely
 147 providing this type of financing;

147A (v) In full to the extent it relates to debt of a banking
 147B corporation to a bank holding company, as defined in 12 U.S.C.
 147C § 1841, of which the banking corporation is a subsidiary.

147D (F) (i) *The amount by which depreciation reported to the*
 147E *United States Treasury Department for property placed in ser-*
 147F *vice on and after January 1, 1981, for purposes of computing*
 147G *federal taxable income in accordance with section 168 of the*
 147I *Internal Revenue Code in effect after December 31, 1980, exceeds*
 147J *the amount of depreciation determined in accordance with the*
 147K *Internal Revenue Code provisions in effect prior to January 1,*
 147L *1981, but only with respect to a taxpayer's accounting period*
 147M *ending after December 31, 1981; provided, however, that where a*
 147N *taxpayer's accounting period begins in 1981 and ends in 1982, no*
 147O *modification shall be required with respect to this paragraph (F)*
 147P *for the report filed for such period with respect to property*
 147Q *placed in service during that part of the accounting period which*
 147R *occurs in 1981.*

147S (ii) *For the periods set forth in subparagraph (F) (i) of this*
 147T *subsection, any amount, except with respect to property described*
 147U *in section 168 (f) (8) (D) (iii) of the Internal Revenue Code,*
 147V *which the taxpayer claimed as a deduction in computing federal*
 147W *income tax pursuant to a qualified lease agreement under para-*
 147X *graph (8) of that section.*

147Y *The director shall promulgate rules and regulations necessary*
 147Z *to carry out the provisions of this section, which rules shall pro-*
 148 *vide, among others, the manner in which the remaining life of*
 148A *property shall be reported.**

148b (3) The commissioner may, whenever necessary to properly
149 reflect the entire net income of any taxpayer, determine the year or
150 period in which any item of income or deduction shall be included,
151 without being limited to the method of accounting employed by
152 the taxpayer.

153 (4) *There shall be allowed as a deduction from entire net income*
154 *of a banking corporation, to the extent not deductible in deter-*
155 *mining federal taxable income, the eligible net income of an inter-*
156 *national banking facility determined as follows:*

157 (A) *The eligible net income of an international banking facility*
158 *shall be the amount remaining after subtracting from the eligible*
159 *gross income the applicable expenses;*

160 (B) *Eligible gross income shall be the gross income derived by*
161 *an international banking facility, which shall include, but not be*
162 *limited to, gross income derived from:*

163 (i) *Making, arranging for, placing or carrying loans to*
164 *foreign persons, provided, however, that in the case of a foreign*
165 *person which is an individual, or which is a foreign branch of*
166 *a domestic corporation (other than a bank), or which is a*
167 *foreign corporation or foreign partnership which is controlled,*
168 *by one or more domestic corporations (other than banks),*
169 *domestic partnerships or resident individuals, all the proceeds*
170 *of the loan are for use outside of the United States;*

171 (ii) *Making or placing deposits with foreign persons which*
172 *are banks or foreign branches of banks (including foreign sub-*
173 *sidaries) or foreign branches of the taxpayers or with other*
174 *international banking facilities; or*

175 (iii) *Entering into foreign exchange trading or hedging*
176 *transactions related to any of the transactions described in this*
177 *paragraph;*

178 (iv) *Such other activities of an international banking facil-*
179 *ity may, from time to time, be authorized to engage in.*

180 (C) *Applicable expenses shall be any expense or other deduc-*
181 *tions attributable, directly or indirectly, to the eligible gross*
182 *income described in paragraph (B) of this subsection.*

183 (l) "Real estate investment trust" shall mean any unincor-
184 porated trust or unincorporated association qualifying and electing
185 to be taxed as a real estate investment trust under federal law.

186 (m) "Financial business corporation" shall mean any corporate
187 enterprise which is (1) in substantial competition with the business
188 of national banks and which (2) employs moneyed capital with the
189 object of making profit by its use as money, through discounting and
190 negotiating promissory notes, drafts, bills of exchange and other

191 evidences of debt; buying and selling exchange; making of or deal-
192 ing in secured or unsecured loans and discounts; dealing in securi-
193 ties and shares of corporate stock by purchasing and selling such
194 securities and stock without recourse, solely upon the order and for
195 the account of customers; or investing and reinvesting in market-
196 able obligations evidencing indebtedness of any person, copartner-
197 ship, association or corporation in the form of bonds, notes or de-
198 bentures commonly known as investment securities; or dealing in or
199 underwriting obligations of the United States, any state or any
200 political subdivision thereof, or of a corporate instrumentality of
201 any of them. This shall include, without limitation of the foregoing
202 business commonly known as industrial banks, dealers in commer-
203 cial paper and acceptances, sales finance, personal finance, small
204 loan and mortgage financing businesses, as well as any other enter-
205 prise employing moneyed capital coming into competition with the
206 business of national banks; provided, that the holding of bonds,
207 notes, or other evidences of indebtedness by individual persons not
208 employed or engaged in the banking or investment business and
209 representing merely personal investments not made in competition
210 with the business of national banks, shall not be deemed financial
211 business. Nor shall "financial business" include national banks,
212 production credit associations organized under the Farm Credit
213 Act of 1933, stock and mutual insurance companies duly autho-
214 rized to transact business in this State, security brokers or dealers
215 or investment companies or bankers not employing moneyed capital
216 coming into competition with the business of national banks, real
217 estate investment trusts, or any of the following entities organized
218 under the laws of this State: credit unions, savings banks, savings
219 and loan and building and loan associations, pawnbrokers, and
220 State banks and trust companies.

221 (n) "*International Banking Facility*" shall mean a set of asset
222 and liability accounts segregated on the books and records of a
223 depository institution, United States branch or agency of a foreign
224 bank, or an Edge or Agreement Corporation that includes only
225 international banking facility time deposits and international
226 banking facility extensions of credit as such terms are defined in
227 section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the
228 board of governors of the federal reserve system, 12 CFR Part 204,
229 effective December 3, 1981. In the event that the United States
230 enacts a law, or the board of governors of the federal reserve sys-
231 tem adopts a regulation which amends the present definition of
232 international banking facility or of such facilities' time deposits or
233 extensions of credit, the Commissioner of Banking shall forthwith

234 *adopt regulations defining such terms in the same manner as such*
 235 *terms are set forth in the laws of the United States or the regula-*
 236 *tions of the board of governors of the federal reserve system. The*
 237 *regulations of the Commissioner of Banking shall thereafter pro-*
 238 *vide the applicable definitions.*

1 2. Section 6 of P. L. 1945, c. 162 (C. 54:10A-6) is amended to
 2 read as follows:

3 6. In the case of a taxpayer which maintains a regular place of
 4 business outside this State other than a statutory office, the portion
 5 of its entire net worth to be used as a measure of the tax imposed
 6 by section 5(a) of this act, and the portion of its entire net income
 7 to be used as a measure of the tax imposed by section 5(c) of this
 8 act, shall be determined by multiplying such entire net worth and
 9 entire net income, respectively, by an allocation factor which shall
 10 be the average of the fractions computed in (A), (B) and (C)
 11 below, or of so many of them as may be applicable, that is:

12 (A) The average value of the taxpayer's real and tangible per-
 13 sonal property within the State during the period covered by its
 14 report divided by the average value of all the taxpayer's real and
 15 tangible personal property wherever situated during such period;
 15A **provided, however, that for the purpose of determining average*
 15B *value, the provisions with respect to depreciation as set forth in*
 15C *paragraph 2 (F) of subsection (k) of section 4 of P. L. 1945, c. 162*
 15D *(C. 54:10A-4) shall be taken into account for arriving at such*
 15E *value.**

16 (B) The receipts of the taxpayer, computed on the cash or
 17 accrual basis according to the method of accounting used in the
 18 computation of its net income for federal tax purposes, arising
 19 during such period from

20 (1) sales of its tangible personal property located within
 21 this State at the time of the receipt of or appropriation to
 22 the orders where shipments are made to points within this
 23 State,

24 (2) sales of tangible personal property located without the
 25 State at the time of the receipt of or appropriation to the
 26 orders where shipment is made to points within the State,

27 (3) (Deleted by amendment.)

28 (4) services performed within the State,

29 (5) rentals from property situated, and royalties from the
 30 use of patents or copyrights, within the State,

31 (6) ***[All]** **all** other business receipts (excluding divi-
 32 dends excluded from entire net income by subsection (k) (1)
 33 of section 4 hereof) earned within the State, divided by the

34 total amount of the taxpayer's receipts, similarly computed,
 35 arising during such period from all sales of its tangible per-
 36 sonal property, services, rentals, royalties and all other
 37 business receipts, whether within or without the State***[;]*** **.

37A **For the purposes of this section, receipts shall not include any*
 37B *sum or sums of money received in payment for gas or electric*
 37C *energy sold to a public utility subject to taxation pursuant to*
 37D *P. L. 1940, c. 5 (C. 54:30A-49 et seq.) for resale to ratepayers of*
 37E *the public utility.**

38 (C) The total wages, salaries and other personal service com-
 39 pensation, similarly computed, during such period of officers and
 40 employees within the State divided by the total wages, salaries
 41 and other personal service compensation, similarly computed, dur-
 42 ing such period of all the taxpayer's officers and employees within
 43 and without the State.

44 In the case of a taxpayer which does not maintain a regular
 45 place of business outside this State other than a statutory office,
 46 the allocation factor shall be 100%.

47 *In the case of a banking corporation which maintains a regular*
 48 *place of business outside this State other than a statutory office,*
 49 *and which elects to take the exclusion from net worth provided in*
 50 *subsection (d) of section 4 of P. L. 1945, c. 162 (C. 54:10A-4) or*
 51 *the deduction from entire net income provided in subsection (k)(4)*
 52 *of section 4 of P. L. 1945, c. 162, the allocation factor shall be com-*
 53 *puted and applied in accordance with section 6 of P. L. 1945, c. 162*
 54 *(C. 54:10A-6); provided, however, that the numerators and the*
 55 *denominators of the fractions described in section 6(A), 6(B) or*
 56 *6(C) shall include all amounts attributable, directly or indirectly,*
 57 *to the production of the eligible net income of an international*
 58 *banking facility as defined in subsection (k)(4) of section 4 of*
 59 *P. L. 1945, c. 162, whether or not such amounts are otherwise attrib-*
 60 *utable to this State.*

1 3. Section 4 of P. L. 1975, c. 170 (C. 54:10A-34) is amended to
 2 read as follows:

3 4. Every banking corporation shall pay an annual franchise
 4 tax in the year 1976 and each year thereafter, as provided in the
 5 Corporation Business Tax Act, P. L. 1945, c. 162 (C. 54:10A-1
 6 et seq.) for the privilege of having or exercising its corporate
 7 franchise in this State, or for the privilege of doing business,
 8 employing or owning capital or property, or maintaining an office
 9 in this State. For the purposes of this act, (1) the privilege period
 10 of each banking corporation shall be the calendar year, and the
 11 initial privilege period shall be the calendar year ending Decem-

ber 31, 1976; (2) January 1, 1976 and January 1, of each year thereafter shall be the assessment dates; (3) the tax on income shall be based upon the income of the calendar year preceding the assessment date; (4) net worth shall be determined as of the December 31 preceding the assessment date; and (5) income of a banking corporation in any privilege period shall include the income of any banking corporation merged into or consolidated with such banking corporation in such privilege period. From and after January 1, 1976, no banking corporation shall be subject to the provisions of R. S. 54:9-1 through 54:9-18 and section 13 of P. L. 1970, c. 8 (C. 54:9-19) but shall, to the extent and in the manner provided by this act, become and be subject to the provisions of the Corporation Business Tax Act and the Business Personal Property Tax Act, P. L. 1966, c. 136 (C. 54:11A-1 et seq.). To effect the transition from taxation under R. S. 54:9-1 through 54:9-18 and section 13 of P. L. 1970, c. 8, to taxation under the Corporation Business Tax Act, every banking corporation shall, within 90 days after the effective date of this act, but not later than December 1, 1975, pay to the State a sum equal to 60% of the amount of the tax that would have been due from such banking corporation had it been subject to taxation under the Corporation Business Tax Act during the calendar year ending December 31, 1974. Thereafter, as provided by the Corporation Business Tax Act, each banking corporation shall, on or before April 15 of each privilege period, commencing with the privilege period beginning January 1, 1976, file a tax return and pay the full amount of the tax determined to be due for the then current privilege period, and shall, in addition, pay a sum equal to 60% of the full amount of the tax due for such privilege period as an advance partial payment against the tax determined to be due for the next succeeding privilege period. Each such banking corporation shall, in the final calculation of the tax determined to be due from it for the 1976 privilege period, receive a credit for the 60% payment made by it on or before December 1, 1975 pursuant to this section, and thereafter, each banking corporation shall, in the final calculation of the tax determined to be due from it for any subsequent privilege period, receive credit for the advance partial payment made by it in the next preceding privilege year. No banking corporation shall, in calculating its income for any of the purposes of taxation under the Corporation Business Tax Act deduct from its income the amount of any tax paid pursuant to R. S. 54:9-1 through 54:9-18 and section 13 of P. L. 1970, c. 8 (C. 54:9-19). Any excess payment made in any privilege year shall be returned as provided in sec-

55 tion 15 of the Corporation Business Tax Act (C. 54:10A-15).
56 Notwithstanding anything contained in this act to the contrary,
57 during each of the privilege years 1976, 1977, 1978 and 1979, the
58 amount to be paid by each banking corporation as taxes under this
59 act shall be the greater of (1) the amount which such banking
60 corporation paid in the calendar year 1975 as taxes pursuant to
61 R. S. 54:9-1 through 54:9-18 and section 13 of P. L. 1970, c. 8 or (2)
62 a sum equal to the total of the taxes paid by such banking corpora-
63 tion pursuant to this section and section 5 of this act. In any case
64 where the corporate existence of a banking corporation transacting
65 business on the effective date of this act terminates during a privi-
66 lege period by voluntary or involuntary dissolution, or by merger
67 or consolidation, or otherwise, such banking corporation shall be
68 liable for the payment of taxes under this section for the full
69 privilege period in which such termination takes place.

70 *The effect of the amendments to this act relating to international*
71 *banking facilities shall be phased in over a 5 year period. In order*
72 *to implement the transition, each banking corporation which elects*
73 *to utilize the deduction from entire net income for eligible net*
74 *income from international banking facilities (provided in sub-*
75 *section (k)(4) of section 4 of P. L. 1945, c. 162 (C. 54:10A-4)) or*
76 *the exclusion from net worth for international banking facilities*
77 *(provided in subsection (d) of section 4 of P. L. 1945, c. 162) shall,*
78 *with its return for the first year in which it makes that election,*
79 *file an information return for 1981 which shall report its income and*
80 *net worth attributable to the activities referred to in subsection*
81 *(k)(4) of section 4 of P. L. 1945, c. 162 as if the taxpayer had an*
82 *established international banking facility during the entire cal-*
83 *endar year 1981 and as if the amendments to this act relating to*
84 *international banking facilities had been effective during that entire*
85 *year. The difference between a taxpayer's corporate franchise tax*
86 *liability for 1981 and the amount it would have been liable for if*
87 *said amendments were in effect during 1981 shall be the taxpayer's*
88 *base international banking facilities tax liability.*

89 *For each of the years 1982 through 1986 in which the taxpayer*
90 *elects to utilize the deduction from entire net income for eligible*
91 *net income from international banking facilities (provided in sub-*
92 *section (k)(4) of section 4 of P. L. 1945, c. 162) or the exclusion*
93 *from net worth for international banking facilities (provided in*
94 *subsection (d) of section 4 of P. L. 1945, c. 162), the taxpayer shall*
95 *pay, in addition to the tax computed under section 5 of P. L. 1945,*
96 *c. 162 (C. 54:10-5) the following percentage of its base international*
97 *banking facilities tax liability:*

98	1982	100%
99	1983	80%
100	1984	60%
101	1985	40%
102	1986	20%

1 4. This act shall take effect immediately.

98	1982	100%
99	1983	80%
100	1984	60%
101	1985	40%
102	1986	20%
1	4. This act shall take effect immediately.	

STATEMENT

This bill is designed to further promote import and export growth in our State and employment related to such growth, and provide an equal opportunity for New Jersey banks to compete with New York banks having international banking facilities.

The Federal Government authorized the creation of international banking facilities as separate domestic entities within U.S. banks to allow equal competition of U.S. banks with foreign banks, and encourage U.S. banks having offshore facilities due to three domestic elements—interest rate, reserve, and tax limits to establish some or all such facilities back in our country by eliminating the reserve and interest rate limits.

International banking facilities are strictly limited under specific circumstances to taking deposits from and providing loans and services to foreign residents, foreign businesses, other IBFs, etc.

Since State taxation of such facilities is not directly under federal control, the federal reserve in promulgating regulations authorizing IBFs delayed the effective date of the new reserve and interest rate provisions until December 3, 1981 so all interested states would have an equal opportunity to amend their tax laws to resolve the tax impediments to such facilities and New York would not have an advantage.

The New York legislature has amended their tax law at the request of a group of New York banks who are involved in foreign financing.

The bill would provide the same type tax abatement for New Jersey banks who wish to create IBFs in New Jersey. Since the State continues to encourage foreign businesses to New Jersey (i.e., Mount Olive Free Trade Zone) and since such businesses locating in our State look for sophisticated services from international banking departments of banks, as one of their criteria for locating in a given state, it is extremely important that New Jersey banks have the same tools as their New York bank competitors to satisfy the need.

Rapid affirmative action by the New Jersey Legislature would help promote the State's interest.

S1003 (1983)

ASSEMBLY REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
SENATE, No. 1003
with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

This bill amends the "Corporation Business Tax Act," providing for an exclusion from "net worth" and "net income" of banking corporations such values and income associated with an international banking facility. The bill is designed to provide an opportunity for New Jersey banks to compete with New York banks having international banking facilities. The New York Legislature has provided for this special treatment of banking corporations which establish international banking facilities.

An "international banking facility" is defined in the bill by reference to regulations by the board of governors of the federal reserve system and means, essentially, a segregated set of asset and liability accounts reflected on the books and records of a banking corporation which includes only international banking facility time deposits and extensions of credit.

FISCAL IMPACT

A fiscal note is not yet available on this bill. However, the bill contains a five year "phase-in" feature which provides, in effect, that for the first year of operation, which is privilege period 1982, there would be no revenue loss. This would be the State fiscal year 1983. For each of the four fiscal years 1984 to 1987 a revenue loss would be experienced at less than the full amount reflecting international banking facility activity. Representatives from the banking industry indicated their estimate of revenue loss to be approximately \$300,000.00 based on 1981 information.

This phase-in is accomplished by requiring a banking corporation to file with its return for the first year in which it elects to utilize the international banking facility deductions, an information return for the year 1981 reflecting the banking corporation's income and net worth for that year attributable to international banking facility activity as if this amended law were in effect. The difference between the actual

corporate franchise tax liability in 1981 and the amount it would have been liable for if this act were in effect for that year represents what is identified in the bill as an "international banking facilities tax liability." A percentage of this amount is then added to the corporate franchise tax otherwise payable in any year and the combined amount is the bank corporations' tax liability. The percentage of the "international banking facilities tax liability" to be paid in addition to the corporate franchise tax is specified as follows:

<i>For Privilege Year:</i>	<i>Applicable Percentage is:</i>
1982	100%
1983	80%
1984	60%
1985	40%
1986	20%

The privilege period for all banking corporations is the calendar year. The report for each privilege period is due on or before April 15 following the end of the privilege period. Therefore, no revenue loss is anticipated in the State fiscal year 1983 as this will be the first report period reflecting recognition of international banking facilities activities.

A representative from the New Jersey Department of Banking indicated the department fully supports the bill.

COMMITTEE AMENDMENTS

The committee amendments conform the bill to the most recent changes that have been enacted into law.
