

This memorandum supersedes memorandum numbered TSB-M-78-(3)-I (Rev) dated August 18, 1978, which should be destroyed.

1978 Legislation

Stock Transfer Tax Credit

Chapter 65 of the Laws of 1978 has been enacted to eliminate both the allowance of a credit and a deduction for stock transfer tax paid in market making transactions.

Section 701(e) of Article 23 provides for a credit of 50% of the stock transfer tax incurred in market making transactions. The credit allowed is considered to be an overpayment of tax which can be credited or refunded.

Section 705(b) provides for modifications increasing Federal gross income. Prior to the enactment of Chapter 65, under paragraph 4 of this section an addition to Federal gross income was to be made for stock transfer tax allowed as an exclusion or a deduction, but limited to the amount of the credit allowed under section 701(e). Therefore, a credit was allowed for one-half of the stock transfer tax and a deduction allowed for the remainder.

To correct this situation, section 705(b)(4) has been amended to provide for increasing Federal gross income by the total amount of stock transfer tax allowed as an exclusion or deduction in determining Federal gross income.

Consistent with these changes, section 705(b)(5) has been repealed. This section provided for the addition to Federal gross income of any excess refund resulting from the application of the credit for stock transfer tax if it was not included in gross income for Federal purposes. Section 705(b)(6) is re-numbered to read section 705(b)(5).

Section 705(c)(6) reduces Federal gross income for any overpayment of state or local income taxes except for the excess refund resulting from the application of the stock transfer tax credit. This section has been amended deleting the part of the paragraph which did not allow the subtraction of an overpayment due to the stock transfer tax credit.

A refund resulting from the stock transfer tax credit is now treated as any other state or local income tax refund.

These amendments are effective April 14, 1978 and are applicable to tax years beginning on or after August 1, 1977.

Chapter 65 also clarifies the date after which the State must pay interest on refunds due to the stock transfer tax credit. Section 701(e)(3) provides for the payment of interest on a refund resulting from the application of the stock transfer tax credit. Prior to the enactment of Chapter 65, the State had to pay interest from the first day of the eleventh month following the close of the taxable year. Section 701(e)(3) has been amended to provide payment of interest as before, or three months after a claim for credit or refund has been filed, whichever is later.

This amendment is effective April 14, 1978 and is applicable to tax years ending on or after August 1, 1976.