



Federal Deposit Insurance Corporation
550 17th Street, NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-61-2013
December 20, 2013

INTERCOMPANY INCOME TAX ALLOCATION AGREEMENTS

Proposed Addendum to Policy Statement

Summary: The federal banking agencies are requesting comment on a proposed addendum that would supplement and clarify the 1998 *Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure* (Interagency Policy Statement). The proposed addendum is intended to ensure that insured depository institutions in a consolidated group maintain an appropriate relationship regarding the payment of taxes and the treatment of tax refunds.

Statement of Applicability to Institutions Under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised banks and savings associations, including community institutions, that (together with a parent holding company) file tax returns as members of a consolidated group.

Distribution:

FDIC-Supervised Banks (Commercial and Savings)
and FDIC-Supervised Savings Associations

Suggested Routing:

Chief Executive Officer
Chief Financial Officer

Related Topics:

[FIL-124-98, November 24, 1998, Intercorporate Income Taxes](#)

Attachment:

[Proposed Addendum to the Interagency Policy Statement](#)

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Note:

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Highlights:

- Since the adoption of the 1998 Interagency Policy Statement, disputes have occurred between holding companies in bankruptcy and failed insured depository institutions regarding the ownership of tax refunds generated by the institutions.
- The proposed addendum to the Interagency Policy Statement is intended to ensure tax allocation agreements explicitly acknowledge that an agency relationship exists between a holding company and its subsidiary institution with respect to tax refunds attributable to the institution.
 - The proposal would direct institutions and their holding companies to review their agreements to ensure they achieve this objective with respect to tax refunds and they do not contain other language to suggest a contrary intent.
 - The proposed addendum also includes a sample paragraph for institutions and their holding companies to use in their tax allocation agreements.
- In addition, the proposed addendum would clarify how certain of the requirements of Sections 23A and 23B of the Federal Reserve Act apply to tax allocation agreements.
- Comments on the attached proposed addendum must be received by January 21, 2014.