

(G) deductible fees and expenses incurred in connection with the completed purchase of investment capital, or the sale, whether or not completed, of investment capital; and

(H) other deductible expenses incurred by the taxpayer for its own benefit in its role as a holder of investment capital, including but not limited to;

(a) deductible expenses incurred in reviewing information prepared by the corporation, where such review is undertaken by the taxpayer in its role as a holder of investment capital;

(b) deductible expenses incurred in connection with the general supervision of the corporation by the taxpayer's employees. These expenses do not include expenses relating to the day-to-day operation of the corporation;

(c) deductible expenses incurred by the taxpayer to preserve its investment capital; and

(d) deductible expenses incurred in meeting reporting requirements or other legal obligations imposed on the taxpayer in its role as a holder of investment capital.

(iv) Direct attribution to more than one class of capital. A specific noninterest deduction may represent an expense that proximately and not incidentally benefits more than one class of capital or income. In that case, the taxpayer should directly attribute a portion of that deduction to each class of capital or income proximately benefitted by that expense using a method that is reasonable for that particular expense. Such a method can be based on one or more factors appropriate given the nature of the deduction. Such factors may include but are not limited to time, space, payroll, and numbers of personnel. See examples below. Deductions listed in subparagraph (i)(A) of this paragraph are, where the taxpayer so elects, irrebuttably presumed to be directly attributable entirely to business capital.

(v) Operating Division Safe Harbor. (A) If a taxpayer can substantiate that at least 95 percent of the noninterest expenses of an operating division are directly attributable to a particular class of capital or income, 100 percent of the noninterest expenses of that operating division may be directly attributed to that class of capital or income at the election of the taxpayer. Noninterest expenses subject to this rule include expenses listed in subparagraph (i)(A) of this paragraph and all other noninterest expenses of that operating division. A taxpayer electing to use these rules for operating divisions may not also elect to use the

entity-wide safe harbor provided in subparagraph (vi) below.

(B) For purposes of this subparagraph, the term "operating division" shall mean a subunit of the taxpayer that meets the following criteria:

(a) the activities of the subunit constitute a trade or business; and

(b) a separate set of books and records is maintained with respect to the subunit.

(C) Trade or Business. The determination as to whether activities constitute a trade or business is dependent on all of the facts and circumstances. Generally a trade or business is a specific set of activities that constitutes or would constitute an economic enterprise carried on for profit if carried on by a separate entity. To constitute a trade or business, a group of activities must ordinarily include every operation that forms a part of, or a step in, an income producing or profit making process including the collection of income and the payment of expenses. It is not necessary that the activities carried out by an operating division constitute a different trade or business from those carried out by other divisions of the taxpayer. A vertical, functional or geographic division of the same trade or business may be a trade or business for this purpose provided that the activities otherwise qualify as a trade or business under this subparagraph (v)(C). However, activities that are merely ancillary to a trade or business do not constitute a trade or business. For example, administrative activities, including, but not limited to, legal, accounting or financial services, where such services are not offered to the public on a regular and continuous basis by the taxpayer, will generally be considered ancillary and will not constitute a trade or business for this purpose.

(D) Separate Books and Records. To have a separate set of books and records a subunit must maintain at a minimum, a separate set of ledger accounts (i.e. cash receipts, cash disbursements, accounts receivable, and accounts payable) and a general journal or similar book of original entry.

(vi) Entity-Wide Safe Harbor. If a taxpayer can substantiate that at least 95 percent of the noninterest expenses of the taxpayer are directly attributable to a particular class of capital or income, the taxpayer may elect to directly attribute 100 percent of the noninterest expenses of the taxpayer to that class. A taxpayer electing to use this safe harbor may not elect also to apply the operating division safe harbor in subparagraph (v) above; the operating division

safe harbor in subparagraph (v) above cannot be applied to enable a taxpayer to qualify for this safe harbor.

(vii) Combined Reports. Each member of a group of corporations filing a combined report may separately opt to apply the operating division safe harbor in subparagraph (v) or the entity-wide safe harbor in subparagraph (vi) above. Alternatively, for purposes of the entity-wide safe harbor in subparagraph (vi) above, all of the corporations filing a combined report may opt to be treated as a single taxpayer.

(c) Indirect attribution of residual noninterest deductions.

(i) Noninterest deductions that cannot be directly attributed as provided in section IV.A(3)(b) above ("residual noninterest deductions") must be attributed to business, subsidiary and investment capital using either the combined asset and income method set out in subparagraph (ii) below, or if an election is made as provided for therein, the alternative asset method set out in (iii) below. The amount of residual noninterest deductions is determined by subtracting the amount of noninterest deductions attributed directly under section IV.A(3)(b) above from the total amount of attributable noninterest deductions.

(ii) Combined asset and income method.

(A) An amount of residual noninterest deductions determined by multiplying residual noninterest deductions by the subsidiary capital combined percentage (defined in (v) below), must be indirectly attributed to subsidiary capital, and the income therefrom.

(B) An amount of residual noninterest deductions determined by multiplying residual noninterest deductions by the investment capital combined percentage (defined in (v) below), must be indirectly attributed to investment capital and income.

(C) The excess of the amount of residual noninterest deductions over the amount of residual noninterest deductions indirectly attributed pursuant to (A) and (B) above must be indirectly attributed to business capital and income.

(iii) Alternative Asset Method.

(A) Method of Attribution

(a) The taxpayer must indirectly attribute to subsidiary capital and income an amount of residual noninterest deductions determined by multiplying