the taxpayer to apply such method either for such taxable year or for subsequent taxable years. A financial institution to which section 585 and this section apply which adopts the reserve method is not entitled to charge off any bad debts pursuant to section 166(a) with respect to a loan (as defined in §1.585–2(e)(2). Except as provided by §1.585–3, the reserve for bad debts of a financial institution to which section 585 and this section apply shall be established and maintained in the same manner as is provided by section 585 (or, for taxable years beginning before January 1, 1987, section 166(c)) and theregulations under section 166 with respect to reserves for bad debts. Except as provided by this section, no deduction is allowable for an addition to a reserve for losses on loans as defined in §1.585–2(e)(2) of a financial institution to which section 585 and this section apply. For rules relating to deduction with respect to debts which are not loans (as defined in §1.585–2(e)(2)), see section 166(a) and the regulations thereunder. For rules relating to a debt evidenced by a security (as defined in section 165(g)(2)(C), see sections 166 and 582(a) and the regulations thereunder. For the definition of certain terms, see paragraph (e) of §1.585–2. For rules relating to a transaction to which section 381(a) applies, see §1.585–4. For rules relating to large banks, see §§1.585–5 through 1.585–8.

(b) *Application of section*—(1) *In general*. Except as provided in paragraph (b)(2) of this section, section 585 and this section apply to the following financial institutions—

(i) Any bank (as defined in section 581 and the regulations thereunder) other than a mutual savings bank, domestic building and loan association, or cooperative bank, to which section 593 applies; and

(ii) Any corporation to which paragraph (b)(1)(i) of this section would apply except for the fact that it is a foreign corporation and in the case of any such foreign corporation, the rules provided by section 585(a) and (b), this section, §§1.585–2, 1.585–3, and 1.585–4 apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

(2) *Exception*. For taxable years beginning after December 31, 1986, section 585(a) and (b) and this section do not apply to any large bank (as defined in §1.585–5(b)). For these years, a large bank may not deduct any amount under section 585 or any other section for an addition to a reserve for bad debts.

(Sec. 585(b)(4), of the Internal Revenue Code of 1954 (83 Stat. 618; (26 U.S.C. 585(b)(4))))

[T.D. 7532, 43 FR 3109, Jan. 23, 1978, as amended by T.D. 8513, 58 FR 68757, Dec. 29, 1993; 59 FR 15502, Apr. 1, 1994]

§ 1.585–2 Addition to reserve.

(a) *In general*—(1) *Maximum addition*. For taxable years beginning before January 1, 1988, the maximum reasonable addition to the reserve for losses on loans as defined in paragraph (e)(2) of this section is the amount allowable under the percentage method provided by paragraph (b) of this section or the experience method provided by paragraph (c) of this section, whichever is greater. For taxable years beginning after December 31, 1987, the maximum reasonable addition to the reserve for losses on loans is the amount determined under the experience method provided by paragraph (c) of this section.

(2) *Minimum addition*. For taxable years beginning after December 31, 1976, and before January 1, 1988, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans as defined in paragraph (e)(2) of this section. For purposes of this subparagraph, the term *minimum addition* means an addition to the reserve for losses on loans in an amount equal to the lesser of (i) the amount allowable under section 585 (b)(3)(A) and paragraph (c)(1)(ii) of this section, or (ii) the maximum amount allowable under section 585 (b)(2) and paragraph (b) of this section. For taxable years beginning after December 31, 1987, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans for each taxable year in an amount equal to the amount allowable under section 585 (b)(3)(A) and paragraph (c)(1)(ii) of this section.

(b) *Percentage method*—(1) *In general*—(i) *Maximum addition.* Except as limited under subparagraph (2) of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method for a taxable year is the amount determined under paragraph (b)(1) (ii), (iii), or (iv) of this section, whichever is applicable. For purposes of this paragraph, the term *allowable percentage* means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; 1.0 percent for taxable years beginning in 1982; and 0.6 percent for taxable years beginning after 1982 and before 1988. This paragraph does not apply for taxable years beginning after 1987.

(ii) *Reserve less than allowable percentage of eligible loans.* (A) If the reserve for losses on loans as of the close of the base year is less than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year, the amount determined under this subdivision for the taxable year is the amount necessary to increase the balance of the reserve for losses on loans as of the close of the taxable year to an amount equal to the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of that year, except that the amount determined with respect to the reserve deficiency shall not exceed one-fifth of the reserve deficiency. For purposes of this section, the term *reserve deficiency* means the excess of the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year over the reserve forlosses on loans as of the close of the base year. Where a taxpayer has recoveries of bad debts for a taxable year which exceed the bad debts sustained for such year, the taxpayer is not required to reduce its otherwise permissible current addition by the amount of the net recovery. A reasonable addition attributable to an increase in eligible loans outstanding at the close of the taxable year over eligible loans outstanding at the close of the base year may be made only for the portion of such increase which does not exceed the excess of eligible loans outstanding at the close of the taxable year over the sum of the amount of eligible loans outstanding at the close of the base year and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year. For purposes of this subdivision, the order in which the factors which make up the annual reserve addition shall be claimed is:

(*1*) An amount equal to one-fifth of the reserve deficiency;

(*2*) Net bad debts charged to the reserve; and

(*3*) An amount attributable to an increase in the amount of eligible loans outstanding.

(B) For its first taxable year, a newly organized financial institution to which §1.585–1 and this section apply shall be considered to have no reserve deficiency. For example, a new financial institution would compute its annual reserve addition by including in such addition an amount not in excess of the sum of (*1*) the amount of its net bad debts charged to the reserve for the taxable year, and (*2*) the allowable percentage of the increase in its eligible loans outstanding at the close of the taxable year over the amount of its loans outstanding (zero) at the end of the year preceding its first taxable year. Such amount would be subject to the 0.6 percent limitations provided in subparagraph (2) of the paragraph.

(C) The application of the rules provided by this subdivision may be illustrated by the following example:

Example. The X Bank is a commercial bank which has a calendar year as its taxable year. X adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, X has $1,000,000 of outstanding eligible loans and a balance of $13,000 in its reserve for losses on loans. The base year is 1969 and, consequently, X has a reserve deficiency of $5,000 ((1.8%×$1,000,000) − $13,000).

(a) During 1970, X has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, X has $1,050,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is $2,900 which consists of $1,000 of reserve deficiency (1⁄5×$5,000), the $1,000 in net bad debts charged to the reserve for losses on loans, and $900 attributable to the increase in the balance of eligible loans (1.8%×($1,050,000 − $1,000,000)). Assuming that X makes an addition to the reserve for losses on loans of $2,900 for the year, the balance of the reserve as of December 31, 1970 is $14,900 ($13,000 − $1,000 + $2,900).

(b) During 1971, X has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1971, X has $800,000 of outstanding eligible loans. The allowable percentage of eligible loans is $14,400 (1.8% × $800,000). The maximum reasonable addition under the percentage method is $500 which is a portion of one-fifth of the reserve deficiency. Assuming that X makes an addition to the reserve for losses on loans of $500 for the year, the balance of the reserve as of December 31, 1971, is $14,400 ($14,900 − $1,000 + $500).

(c) During 1972, X has net bad debts of $600 charged to the reserve for losses on loans. On December 31, 1972, X has $850,000 of outstanding eligible loans. The allowable percentage of eligible loans is $15,300 (1.8% × $850,000). The maximum reasonable addition under the percentage method is $1,500 which consists of $1,000 of reserve deficiency (1/5 × $5,000) and $500 of the net bad debts charged to the reserve for losses on loans in 1971. Even though the full addition with respect to the reserve deficiency in 1971 was not made, the amount of the addition that can be made in 1972 with respect to the reserve deficiency is limited to one-fifth of such deficiency. Assuming that X makes an addition to the reserve for losses on loans of $1,500 for the year, the balance of the reserve as of December 31, 1972, is $15,300 ($14,400 − $600 + $1,500).

(d) During 1973, X did not have any net bad debts charged to the reserve for losses on loans. On December 31, 1973, X has $1,000,000 of outstanding eligible loans. The allowable percentage of eligible loans is $18,000 (1.8% × $1,000,000). The maximum reasonable addition under the percentage method is $2,100 which consists of $1,000 of reserve deficiency (1/5 × $5,000), $500 of net bad debts charged to the reserve for losses in 1971, and $600 of net bad debts charged to the reserve in 1972. Although outstanding eligible loans increased from $850,000 in 1972 to $1,000,000 in 1973, no addition is permitted with respect to the increase because the amount of eligible loans outstanding at the close of 1973 ($1,000,000) does not exceed the sum of the amount of such loans at the close of the base year ($1,000,000) and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year ($50,000 loan increase in 1970). Assuming that X makes an addition to the reserve for losses on loans of $2,100, the balance of the reserve as of December 31, 1973, is $17,400 ($15,300 + $2,100).

(iii) *Reserve equal to or greater than allowable percentage and eligible loans have not declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year and if the amount of eligible loans outstanding at the close of the taxable year is equal to or greater than the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the reserve to the greater of (A) the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the year, or (B) the balance of the reserve as of the close of the base year. The application of the rule provided by this subdivision may be illustrated by the following example:

Example. The M Bank is a commercial bank which has a calendar year as its taxable year. M adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, M has $1,000,000 of outstanding eligible loans and a balance of $20,000 in its reserve for losses on loans.

(a) During 1970, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, M has $1,100,000 of outstanding eligible loans. The allowable percentage of eligible loans is $19,800 (1.8% × $1,100,000). The maximum reasonable addition under the percentage method is $1,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the 1969 base year ($20,000). Assuming that M makes an addition to the reserve for losses on loans of $1,000 for the year, the balance of the reserve as of December 31, 1970, is $20,000 ($20,000 − $1,000 + $1,000).

(b) During 1971, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1971, M has $1,300,000 of outstanding eligible loans. The allowable percentage of eligible loans is $23,400 (1.8% × $1,300,000). The maximum reasonable addition under the percentage method is $4,400 which is the amount sufficient to increase the balance of the reserve to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M makes an addition to the reserve for losses on loans of $4,400 for the year, the balance of the reserve as of December 31, 1971, is $23,400 ($20,000 − $1,000 + $4,400).

(c) During 1972, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1972, M has $1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is $21,600 (1.8%×$1,200,000). No reasonable addition may be made under the percentage method because the reserve for losses on loans ($22,400, i.e., $23,400−$1,000) is greater than the allowable percentage of eligible loans outstanding at the close of the taxable year ($21,600) and the balance of the reserve as of the close of the base year ($20,000). Assuming that no amount is added under the experience method provided by paragraph (c) of this section, the balance of the reserve for losses on loans as of December 31, 1972, is $22,400 ($23,400−$1,000).

(d) During 1973, M has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1973, M has $1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is $21,600 (1.8%×$1,200,000). The maximum reasonable addition under the percentage method is $200 which is the amount sufficient to increase the reserve for losses on loans to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M makes an addition to the reserve for losses on loans of $200 for the year, the balance of the reserve as of December 31, 1973, is $21,600 ($22,400−$1,000+$200).

(iv) *Reserve greater than allowable percentage and eligible loans have declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage of eligible loans outstanding at such time and if the amount of eligible loans at the close of the taxable year is less than the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the balance of the reserve to the amount which bears the same ratio to eligible loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of eligible loans outstanding at the close of the base year. The application of the rule provided by this subdivision may be illustrated by the following example:

Example. The N Bank is a commercial bank which has a calendar year as its taxable year. N adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, N has $1,000,000 of outstanding eligible loans and a balance of $20,000 in its reserve for losses on loans.

(a) During 1970, N has net bad debts of $3,000 charged to the reserve for losses on loans. On December 31, 1970, N has $900,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is $1,000, which is the amount necessary to increase the balance of the reserve to the amount ($18,000) which bears the same ratio to eligible loans outstanding at the close of the taxable year ($900,000) as the balance of the reserve as of the close of the base year ($20,000) bears to the amount of the eligible loans outstanding at the close of the base year ($1,000,000). Assuming that N makes an addition to the reserve for losses on loans of $1,000 for the year, the balance of the reserve as of December 31, 1970, is $18,000 ($20,000−$3,000+$1,000).

(b) During 1971, N has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1971, N has $1,100,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method, determined under subdivision (iii) of this subparagraph, is $3,000 which is the amount necessary to increase the balance of the reserve to the greater of the allowable percentage of eligible loans outstanding at the close of the taxable year ($19,800) or the balance of the reserve at the close of the base year ($20,000). Assuming that N makes an addition to the reserve for losses on loans of $3,000 for the year, the balance of the reserve as of December 31, 1971 is $20,000 ($18,000−$1,000+$3,000).

(2) *Limitations.* Notwithstanding any other provision of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method shall not exceed the greater of:

(i) Six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year, or

(ii) An amount sufficient to increase the reserve for losses on loans at the close of the taxable year to six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year.

The application of the rules provided by this subparagraph may be illustrated by the following example:

Example. The Y Bank begins business as a commercial bank on July 1, 1974. Y adopts the calendar year as its taxable year and the reserve method of accounting for bad debts.

(a) During 1974, Y has net bad debts of $1,000. On December 31, 1974, Y has $1,000,000 of outstanding eligible loans. Under subparagraph (1)(ii)(B) of this paragraph, because Y is a newly-organized financial institution, there is no reserve deficiency. Except for the limitations of this subparagraph, the maximum reasonable addition under subparagraph (1)(ii)(A) of this paragraph would be the amount of net bad debts charged to the reserve for losses ($1,000) plus the allowable percentage of outstanding eligible loans at the close of the taxable year $18,000 (1.8%×$1,000,000). However, because of the limitations of this subparagraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method is an amount sufficient to increase the balance of the reserve for losses on loans to $6,000 which is 0.6 percent of the eligible loans outstanding at the close of the taxable year. Assuming that Y makes an addition to the reserve for losses on loans of $7,000 for the year, the balance of the reserve as of December 31, 1974, is $6,000 ($7,000−$1,000). The $7,000 consists of the $1,000 in net bad debts and $6,000 attributable to the increase in eligible loans outstanding.

(b) During 1975, Y has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1975, Y has $1,000,000 of outstanding eligible loans. Except for the limitations of this subparagraph, the maximum reasonable addition under subparagraph (1)(ii)(A) of this paragraph would be the amount of net bad debts charged to the reserve for losses ($1,000) plus an amount attributable to the increase in the amount of eligible loans outstanding with respect to which no reasonable addition was allowed in 1974 ($12,000, *i.e.*, $18,000−$6,000). However, because of the limitations of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method is $6,000 which is an amount equal to 0.6 percent of the eligible loans outstanding at the close of the taxable year. This amount consists of net bad debts of $1,000 and $5,000 attributable to a portion of the increase in eligible loans in 1974 with respect to which no reasonable addition was allowable for 1974. Assuming that Y makes an addition to the reserve for losses on loans of $6,000 for the year, the balance of the reserve as of December 31, 1975, is $11,000 ($6,000−$1,000+$6,000).

(c) During 1976, Y has net bad debts charged to the reserve for losses on loans of $1,000. On December 31, 1976, Y has $1,000,000 in outstanding eligible loans. At the close of 1975 (Y's base year for 1976), the amount of outstanding eligible loans was also $1,000,000. Consequently, there is a reserve deficiency of $1,000 ((1.2%×$1,000,000)—$11,000). The maximum reasonable addition to the reserve for losses under subparagraph (1)(ii)(A) of this paragraph is $1,200 which consists of one-fifth of the reserve deficiency ($1,000×⅕=$200) and the net bad debts charged to the reserve for losses on loans for the year ($1,000). Because that amount is less than 0.6 percent of the eligible loans outstanding at the close of the taxable year (0.6%×$1,000,000=$6,000), the limitations of this subparagraph do not apply. Assuming that Y makes an addition to the reserve for losses on loans of $1,200 for the year, the balance of the reserve as of December 31, 1976, is $11,200 ($11,000−$1,000+$1,200).

(c) *Experience method*—(1) *In general*—(i) *Maximum addition.* The amount determined under this paragraph for a taxable year is the amount necessary to increase the balance of the reserve for losses on loans (as of the close of the taxable year) to the greater of the amount determined under subdivision (ii) or (iii) of this subparagraph. For special rules for a new financial institution, see subparagraph (2) of this paragraph.

(ii) *Six-year moving average amount.* The amount determined under this subdivision is the amount which bears the same ratio to loans outstanding at the close of the taxable year as (A) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (B) the sum of the loans outstanding at the close of such 6 (or fewer) taxable years. For purposes of applying this subdivision, a period shorter than 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a bank's portfolio of loans changes fromagricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than 6 years may be appropriate. Similarly, a bank which has recently altered its lending practices to include in its portfolio of loans consumer-installment loans, when it had previously made only commercial loans, may also qualify to use a period shorter than six years. A decline in the general economic conditions in the area, which substantially increase the risk of loss, is a relevant factor which may be considered. In any case, however, approval to use a shorter period will not be granted unless the taxpayer supplies specific evidence that the loans outstanding at the close of the taxable years for the shorter period requested are not comparable in nature and risk to loans outstanding at the close of the six taxable years. The fact that a bank's bad debt experience has shown a substantial increase is not, by itself, sufficient to justify use of a shorter period. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall not be considered unless it is sent to the Commissioner at least 30 days before the close of the first taxable year for which such approval is requested.

(iii) *Base year amount.* The amount determined under this subdivision is the lower of (A) the balance of the reserve as of the close of the base year, or (B) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of loans outstanding at the close of the base year.

(2) *Special rules for new financial institutions*—(i) *In general.* In the case of any taxable year preceded by less than 5 authorization years (as defined in paragraph (e)(5) of this section), subparagraph (1) of this paragraph shall be applied with the adjustments provided by subdivision (ii) of this subparagraph.

(ii) *Adjustments.* (A) The total bad debts for the 6-year period computed under subparagraph (1)(ii)(A) of this paragraph shall be the sum of:

(*1*) The bad debts sustained by the taxpayer during its authorization years, adjusted for recoveries of bad debts for such years, and

(*2*) That fraction of the total bad debts sustained by a comparable bank (as defined in paragraph (e)(7) of this section) during the comparison years (as defined in paragraph (e)(6) of this section), adjusted for recoveries of bad debts for such years, which bears the same ratio to such total as the average loans outstanding of the taxpayer during the authorization years bears to the average loans outstanding of the comparable bank during the comparison years.

(B) The total amount of loans outstanding during the 6-year period computed under subparagraph (1)(ii)(B) of this paragraph shall be six times the average loans outstanding of the taxpayer during the authorization years.

(d) *Change in accounting method from specific charge-off method to reserve method of treating bad debts*—(1) *In general.* If a bank is granted permission in accordance with §1.446–1(e)(3) to change its method of accounting for bad debts from a method under which specific bad debt items are deducted to the reserve method of treating bad debts, the taxpayer shall effect the change as provided in subparagraphs (2) and (3) of this paragraph.

(2) *Initial balance of the reserve.* The initial balance of the reserve at the close of the year of change shall be no less than the minimum addition as described in paragraph (a)(2) of this section and shall be no larger than the greater of:

(i) The allowable percentage of eligible loans outstanding at the close of the taxable year of change, or

(ii) The amount which bears the same ratio to loans outstanding at the close of the taxable year as the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to the sum of the loans outstanding at the close of such 6 or fewer taxable years.

In the case of taxable years beginning after 1987, the initial balance of the reserve at the end of the year of change shall be the amount specified in subdivision (ii) of this subparagraph.

(3) *Deduction with respect to initial balance.* The deduction with respect to the initial balance of the reserve at the close of the taxable year of change, determined under subparagraph (2) of this paragraph, is allowable ratably over a period of 10 years commencing with the taxable year of change (or a shorter period as may be approved by the Commissioner). Thus, the bad debt deduction under section 166 for the taxable year of change will consist of the amount of debts determined to be wholly or partially worthless and charged-off during such taxable year plus one-tenth (if a 10-year period is used) of the amount of the reserve determined under subparagraph (2) of this paragraph. For each of the 9 taxable

years following the taxable year of change, the bad debt deduction will consist of the reasonable addition to the reserve for bad debts for each such year as provided by section 585, as otherwise determined, plus one-tenth of the amount determined to be theinitial balance of the reserve under subparagraph (2) of this paragraph. The amount established as a bad debt reserve for the taxable year of change under subparagraph (2) of this paragraph shall be considered as the balance of the reserve for purposes of determining the amount of subsequent additions to such reserve, even though the entire amount of the reserve may not have been deducted under section 585(a)(1) or former section 166(c) because of the requirement that it be deducted over a number of years.

(e) *Definitions*—(1) *Base year*—(i) *Percentage method*. For purposes of paragraph (b) of this section (relating to the percentage method), the term *base year* means: For years beginning before 1976, the last taxable year beginning on or before July 11, 1969; for taxable years beginning after 1975 but before 1983, the last taxable year beginning before 1976; and, for taxable years beginning after 1982, the last taxable year beginning before 1983. However, for purposes of section 585(b)(2)(A) the term *base year* means the last taxable year before the most recent adoption of the percentage method, if later than the base year as determined under the preceding sentence.

(ii) *Experience method*. For purposes of paragraph (c) of this section (relating to the experience method), the term *base year* means (A) the last taxable year before the most recent adoption of the experience method, or (B) the last taxable year beginning on or before July 11, 1969, which ever is later; and for taxable years beginning after 1987, the last taxable year beginning before 1988.

(iii) *Example*. The application of the rules provided by this subparagraph may be illustrated by the following example:

Example. The T Bank is a commercial bank which has a calendar year as its taxable year. T adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, T has $1,000,000 of outstanding eligible loans and a balance of $19,300 in its reserve for losses on loans.

(a) During 1970, T has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1970, T has $1,050,000 of outstanding eligible loans. T elects the percentage method. The base year is 1969. The maximum reasonable addition under the percentage method of $1,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the base year 1969 ($19.300). Assuming that T makes an addition to the reserve for losses on loans of $1,000 for the year, the balance of the reserve for losses on loans as of December 31, 1970, is $19,300 ($19,300 − $1,000+$1,000).

(b) During 1971, T has net bad debts of $8,000 charged to the reserve for losses on loans. On December 31, 1971, T has $1,100,000 of outstanding eligible loans. T elects the experience method. The base year is 1970. The maximum reasonable addition under the experience method is $8,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the 1970 base year ($19,300). Assuming that T makes an addition to the reserve for losses on loans of $8,000 for the year, the balance of the reserve for losses on loans as of December 31, 1971, is $19,300, ($19,300 − $8,000+$8,000).

(c) During 1972, T has net bad debts of $1,000 charged to the reserve for losses on loans. On December 31, 1972, T has $1,200,000 of outstanding eligible loans. T elects the percentage method. The base year is 1971 and there is a reserve deficiency of $500 ((1.8%×$1,100,000) − $19,300). The maximum reasonable addition under the percentage method is $2,900 which consists of $100 of reserve deficiency (⅕×$500), the $1,000 in net bad debts charged to the reserve for losses on loans, and $1,800 attributable to the increase in the balance of eligible loans (1.8%×($1,200,000 − $1,100,000)). Assuming that T makes an addition to the reserve for losses on loans of $2,900 for the year, the balance of the reserve for losses on loans as of December 31, 1972, is $21,200 ($19,300 − $1,000+$2,900).

(2) *Loan*—(i) *General rule*. For purposes of this section and §§ 1.585–1, 1.585–3, and 1.585–4, the term *loan* means debt as the term *debt* is used in section 166 and the regulations thereunder. The term *loan* includes (but is not limited to) the following items:

(A) An overdraft in one or more deposit accounts by a customer in good faith whether or not other deposit accounts of the same customer have balances in excess of the overdraft;

(B) A bankers acceptance purchased or discounted by a bank; and

(C) A loan participation to the extent that the taxpayer bears a risk of loss.

For purposes of (B) of this subdivision (i), a bankers acceptance shall be considered as a loan made by the bank which purchased or discounted the bankers acceptance and not a loan made by the originating bank.

(ii) *Exceptions.* Notwithstanding the provisions of subdivision (i) of this subparagraph, the term *loan* does not include the following items:

(A) Discount or interest receivable reflected in the face amount of an outstanding loan, which discount or interest has not been included in gross income;

(B) For taxable years beginning after December 31, 1976, commercial paper, however acquired by the bank, including, for example, short-term promissory notes which may be purchased on the open market;

(C) For taxable years beginning after December 31, 1976, a debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder);

(D) Any loan which is entered into or acquired for the primary purpose of enlarging the otherwise available bad debt deduction;

(E) Loans which have been contractually committed to the extent that funds have not been disbursed to the borrower or disbursed on behalf of the borrower; and

(F) Any transaction which is in violation of a Federal or State statute that governs the activities of the financial institution.

(3) *Eligible loan*—(i) *General rule.* For purposes of this section and §§1.585–3 and 1.585–4, the term *eligible loan* means a loan (as defined in subparagraph (2) of this paragraph) which is incurred in the course of the normal customer loan activities of a financial institution and which is not a loan described in subdivision (ii) of this subparagraph. Nothing within the preceding sentence will be construed to exclude from the term *eligible loan* a bona fide loan in a new market or under a novel repayment arrangement if the likelihood of nonrepayment is at least as great as that of other customer loans of the financial institution.

(ii) *Exceptions.* Loans which do not constitute eligible loans include:

(A) A loan to a bank (as defined in section 581 and the regulations thereunder) or to a domestic branch of a foreign corporation to which §1.585–1 applies, including a repurchase transaction or other similar transaction;

(B) Bank funds on deposit in any bank (foreign or domestic) such as a deposit represented by a certificate of deposit or any other form of instrument evidencing the deposit of a sum of money with the issuing bank that will be available on or after a stated date or period of time;

(C) A sale or loan of Federal funds irrespective of the purchaser or borrower;

(D) A loan, to the extent that it is directly or indirectly made to, guaranteed by, or insured by the United States, a possession or instrumentality thereof, or a State or political subdivision thereof; and

(E) A loan which is secured by a deposit in the lending financial institution or in a bank as defined in section 581 or a domestic branch of a foreign corporation to which this section applies to the extent that the financial institution has control over withdrawal of such deposit.

(iii) *Definition of loan which is secured by a deposit.* For purposes of subdivision (ii)(E) of this subparagraph:

(A) A loan is considered secured if the loan is on the security of any instrument which makes the deposit specific security for the payment of the loan, provided that such instrument is of such a nature that in the event of default the deposit could be subjected to the satisfaction of the loan;

(B) A deposit includes a guarantee deposit in the form of a *holdback,* pledged collateral that has been reduced to cash, and loan payments that are maintained in a separate account; and

(C) Control over the withdrawal of a deposit is evidenced by possession of a passbook, certificate of deposit, note, or other similar instrument the possession of which is normally required to permit withdrawal. The lending financial institution does not have control over withdrawal of the deposit if the deposit can be withdrawn without consent of the lending financial institution. Thus, the lending financial institution normally does not have control over the withdrawal of a deposit in an account merely because the borrower agrees to maintain a minimum, average, or compensating balance.

(4) *Predecessor*. For purposes of this section, the term *predecessor* means (i) any taxpayer which transferred more than 50 percent of the total amount of its assets to the taxpayer and is described in §1.585–1, or (ii) any predecessor of such predecessor.

(5) *Authorization years*. For purposes of this section, the term *authorization years* means the number of years, containing 12 complete months, between (i) the first day of the first full taxable year of the taxpayer for which it (or any predecessor) was authorized to do business as a financial institution described in §1.585–1, and (ii) the taxable year.

(6) *Comparison years*. For purposes of this section, the term *comparison years* means those consecutive taxable years containing 12 complete months of a comparable bank, the last of which ends within 12 months immediately preceding the beginning of the first taxable year of the taxpayer, which are equal in number to six minus the number of authorization years of the taxpayer.

(7) *Comparable bank*. For purposes of this section, the term *comparable bank* means all the financial institutions described in §1.585–1 located within the same Federal Reserve district.

(8) *Average loans outstanding*. For purposes of this section, the term *average loans outstanding* means the sum of the loans outstanding at the close of each taxable year of a period divided by the number of taxable years in such period.

(9) *Adjusted for recoveries of bad debts*. For purposes of this section, the term *adjusted for recoveries of bad debts* means an adjustment for the full amount recovered with respect to bad debts previously charged to the reserve during any of the applicable taxable years.

(Sec. 585(b)(4), of the Internal Revenue Code of 1954 (83 Stat. 618; (26 U.S.C. 585(b)(4))))

[T.D. 7532, 43 FR 3109, Jan. 23, 1978, as amended by T.D. 7835, 47 FR 42342, Sept. 27, 1982; T.D. 8513, 58 FR 68757, Dec. 29, 1993]

§ 1.585–3 Special rules.

(a) *Treatment of reserve*. For taxable years beginning after July 11, 1969, if a financial institution to which section 585 and §1.585–1 apply establishes a reserve pursuant to section 585(a) (or, for taxable years beginning before January 1, 1987, section 166(c)), any bad debt in respect of a loan (whether or not such loan is an eligible loan) must be charged to the reserve for losses on loans provided for by §1.585–1 for the taxable year in which the bad debt occurs. For such a year, any recovery of a bad debt previously charged to the reserve account in respect of a loan (whether or not such loan is an eligible loan) must be credited to such reserve in the taxable year of recovery regardless of whether such credit causes the reserve to exceed the permissible amount. If, as a result of net recoveries during the taxable year, the reserve balance exceeds the permissible amount, a taxpayer is not required to report the excess as taxable income. In such a case, the excess over the otherwise permissible amount in the reserve account precludes current reasonable additions to the reserve and may affect future reasonable additions. Recoveries of bad debts which were not charged to the reserve shall not be credited to such reserve, but shall be treated as taxable income subject to the provisions of section 111. No item other than a loan as defined in §1.585–2 (e)(2) shall be charged to the reserve for losses on loans.

(b) *Accounting for reserve*. A financial institution to which section 585 and §1.585–1 apply which establishes a reserve pursuant to section 585(a) (or, for taxable years beginning before January 1, 1987, section 166(c)) shall establish and maintain a permanent record of such reserve. Copies of Federal income tax returns and amended returns with attached schedules satisfy the requirements of this paragraph provided that such returns are permanently maintained by the financial institution and the balance of the reserve for losses on loans established pursuant to section 585(a) (or former section 166(c)) can be readily reconciled with the reservefor losses on loans maintained by the financial institution for financial statement purposes. The requirements of