

Banks—Net Income—Deductions Allowable from Annual Net Income.

Held that under statement of facts the deductions made by the bank were not proper and only such losses as were actually sustained and charged off within the year may be deducted.

February 11, 1918.

Hon. H. L. Hart,
State Treasurer,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of recent date relative to the annual return filed in your office by one of the banks of the State.

It appears that on January 1, 1916, the loans of this bank were in a very bad condition. Receivables had been renewed, or extended or were long past due, covering over 75% of the amount of the notes held by the bank. That during the past two years all notes that, in the opinion of the board of directors, were worthless were charged off. This necessitated the charging off during 1916 notes totaling \$9986.17, and losses on real estate, \$7121.92, and during the year 1917 notes and accounts totaling \$15,535.55.

You desire to know whether the bank may properly make such deductions from its annual net income.

Section 2, Chapter 79, Laws of the 15th Legislative Assembly, provides that in the case of a corporation engaged in business wholly within the State, the net income shall be ascertained by deducting from the gross amount of its income from all sources, all the ordinary and necessary expense paid within the year in the maintenance and operation of its business and properties, and *all losses actually sustained and charged off within the year* and not compensated by insurance or otherwise.

It is not claimed by the bank that all of these losses were sustained during the year, merely that they were charged off.—in fact the bank's letter clearly shows that the losses were sustained during a number of years prior to 1916.

No doubt the bank may properly deduct from its gross income, notes or accounts that are worthless, but certainly it cannot permit these worthless accounts to accumulate during a period of years and charge same off against the gross income for one year.

I am, therefore, of the opinion that the deduction made by the bank are not proper and only such losses as were *actually sustained and charged off within the year* may be deducted.

Respectfully,

S. C. FORD,
Attorney General.