stated that other less restrictive methods of estimating future taxable income, which are acceptable under GAAP, should also be allowed.

After considering these comments, the OCC concluded that banks may calculate one year's future taxable income based on either the specific method in BB 93–15 or another reasonable method that is consistent with GAAP. Since banks routinely make their own projections of future taxable income and have this information readily available, this modification reduces regulatory burden.

Gross-up of Intangibles-FAS 109 requires a bank to record higher amounts of intangible assets acquired in nontaxable purchase business combinations than they would record under previous GAAP for the same transaction. The OCC capital adequacy rules require banks to deduct certain intangible assets from regulatory capital. Consequently, under FAS 109, a bank acquiring such assets would reflect a lower amount of regulatory capital after deducting these disallowed intangibles than it would have under previous accounting standards even though there is no additional risk to capital.

Several commenters indicated that the OCC should not require banks to deduct the additional amounts of identifiable intangible assets required by FAS 109. The OCC agrees with these commenters. Since the higher intangible amounts occur simply because of an accounting rule change, the higher amounts do not present additional risk to capital. Therefore, because the increased value of the intangible assets pose no additional risk to capital adequacy, this final rule permits a bank to net the deferred tax liability associated with a disallowed intangible asset against that intangible asset in the calculation of its limit on deferred tax assets.

Under this approach, a bank would only deduct the net amount of the disallowed intangible from Tier 1 capital. Netting is not allowed against purchased mortgage servicing rights and purchased credit card receivables since a bank deducts these assets for capital adequacy purposes only if they exceed specified limits on intangible assets. Consequently, this final rule results in the same treatment for intangibles resulting from purchase business combinations as under previous GAAP. However, to ensure this benefit is not double counted, a deferred tax liability netted in this manner could not also be netted against deferred tax assets when determining the amount of deferred tax assets that are dependent upon future taxable income.

Leveraged Leases-Similar to the gross up of intangibles'' issue, the OCC agrees with one commenter who recommended that the final rule include a specific provision relating to the accounting treatment for leveraged leases. The commenter noted the valuation of a leveraged lease acquired in a purchase business combination gives recognition to the estimated future tax effect of the remaining cash flows of the lease. Therefore, any future tax liabilities related to acquired leveraged leases are included in the valuation of the leveraged leases and are not shown on the balance sheet as deferred taxes payable. This artificially increases the amount of deferred tax assets for institutions that acquire a leveraged lease portfolio. The commenter suggested that banks treat the future taxes payable included in the valuation of a leverage lease portfolio as a reversing taxable temporary difference available to support the recognition of deferred tax assets.

Although this situation will not affect many banks, the OCC agrees with this commenter. Accordingly, when applying the limit on deferred tax assets, a bank may use the deferred tax liabilities embedded in the carrying value of a leveraged lease to reduce the amount of deferred tax assets subject to the limit.

Tax Jurisdictions—In a response to the proposed rule, a commenter suggested that a bank calculate one overall limit on deferred tax assets to cover all tax jurisdictions in which the bank operates. This provision would reduce burden on large banks that operate in numerous jurisdictions because they would not need to separately calculate a limit on deferred tax assets for each jurisdiction. FAS 109 already requires a jurisdiction-byjurisdiction approach. The OCC agrees with the commenter that the separate tax jurisdiction requirement in the overall limit on deferred tax assets is unnecessary. Therefore, to reduce regulatory burden, a bank may calculate one overall limit on deferred tax assets that covers all tax jurisdictions in which the bank operates.

Timing—A bank may use the future taxable income projections for its closest fiscal year (adjusted for any significant changes that have occurred or are expected to occur) when applying the limit on deferred tax assets at a report date other than year-end. Therefore, a bank will not have to prepare a new projection each quarter. Several commenters requested this treatment because it reduces the frequency that a bank is required to revise their estimate of future taxable income. Except for these provisions, banks should follow FAS 109 in determining regulatory capital. Net deferred tax assets included in bank Call Reports under FAS 109, that exceed the limit on deferred tax assets, should be deducted from Tier 1 capital. Banks should also deduct the amount of disallowed deferred tax assets from both total assets and from risk-weighted assets in determining their leverage capital and risk-based capital ratios. Deferred tax assets included in risk-based capital continue to have a risk weight of 100%.

## **Other Considerations**

Separate Entity Method—Consistent with the policy of applying GAAP individually to banks of a holding company, each subsidiary bank must determine its limit on deferred tax assets separately from the holding company. Under this "separate entity method," a subsidiary of a holding company is treated as a separate taxpayer, and its tax provision is calculated on this basis.

In some cases, a bank's holding company may not have the financial capability to reimburse the bank for tax benefits derived from the bank's carryback of net operating losses or tax credits. In these cases, the amount of carryback potential the bank may consider in calculating the limit on deferred tax assets is limited to the amount which it could reasonably expect to have refunded by its parent.

Several commenters suggested that the OCC eliminate the separate entity approach because GAAP does not require it and because the approach ignores Federal tax law and binding intercompany tax settlement agreements. The OCC considered these comments. However, the banking agencies generally require banks to file regulatory reports using a separate entity approach, and consistency between the reports would be reduced if the OCC permitted a bank to use other methods for calculating deferred tax assets. Therefore, the OCC decided that banks must continue to report and calculate the limit on deferred tax assets under the separate entity method.

Tax Effects of Financial Accounting Standard 115 (FAS 115)—The OCC, along with the other banking agencies, adopted Statement of Financial Accounting Standards No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (FAS 115), for regulatory reporting purposes effective January 1, 1994. FAS 115 requires net unrealized holding gains and losses on available-for-sale securities to be recorded net of taxes. Consequently, when a bank recognizes