

FRANCHISE TAX) New York Mutual Savings Bank pays Twenty-five
BANKS) Dollar (\$25.00) annual fee.

March 21, 1950

3/22/50

FILED
27

Honorable Clarence Evans
Chairman, State Tax Commission
Jefferson City, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"We have a request concerning the liability for corporation franchise tax of a New York Mutual Savings Bank.

"The bank in question is the New York Mutual Banking Corporation which is applying for a license to do business in Missouri, stating that they have in mind purchasing Government Housing Loans and that one of the requirements in the purchase of such securities is that a service agent living within fifty miles of the project be retained. It is our understanding that this Savings Bank is applying to the Department of Finance for the permission to operate in Missouri for the purpose above outlined.

"We have checked the corporation franchise tax laws and the only section we can find that would cover this is Section 140 of House Bill No. 540, Laws of 1945.

"We are enclosing statement covering the corporate structure of a New York Savings Bank and will appreciate your advising us as to the liability for corporation franchise tax."

Honorable Clarence Evans

The statement concerning the corporate structure of New York Savings Bank is, in part, as follows:

"You will also wish to know the nature of the corporate organization of a New York Savings Bank. Such savings banks are mutual corporations, entirely without capital stock. They are banking corporations pursuant to New York Law and subject to supervision of our Banking Department. Certain of such savings banks, including our clients, were originally incorporated many years ago by special act of the legislature, but all such legislative charters contained reserve power to amend, and pursuant to such reserve power, the New York legislature long ago amended all such charters to conform to the article of our Banking Law relating to savings banks, * * *"

Section 3 of Article X of the Constitution of New York contains the following provision:

"The legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And, no such corporation shall have any capital stock, * * *"

(Underscoring ours.)

Section 138 of the Missouri General and Business Corporation Law, re-enacted Laws of 1945, page 711, provides in part:

"Every corporation organized under any laws of this state and every foreign

Honorable Clarence Evans

corporation engaged in business in this state and having no shares shall make a report in writing to the State Tax Commission, annually, on or before the first day of March, in such form as said commission may prescribe. * * *"

(Underscoring ours.)

Section 140 of said act, re-enacted Sixty-fifth General Assembly, Senate Bill No. 124, provides in part as follows:

"Upon the filing of the report provided for in Sections 138 and 139 of the general and business corporation act of Missouri, said commission shall certify to the Director of Revenue on or before August 1st of every year for collection, as herein provided, a fee of twenty-five dollars for every corporation organized as a mutual insurance corporation not having shares, or any other corporation not organized strictly for religious, charitable or educational purposes and having no shares or of a company or association organized to transact business of life or accident insurance on the assessment plan for the purpose of mutual protection and benefit to its members and the payment of stipulated sums of money to the family, heirs, executors, administrators or assigns of the deceased member thereof. * * *"

If a New York Mutual Savings Bank does business in Missouri, it, having no shares, would be required to make the report prescribed by Section 138 of the General and Business Corporation Act, and to pay the Twenty-five Dollar (\$25.00) annual fee prescribed by Section 140. There is no provision for imposing a franchise tax upon such corporation on any other basis.

Honorable Clarence Evans

CONCLUSION

Therefore, it is the opinion of this department that a New York Mutual Savings Bank, which does business in Missouri, is required to make the report prescribed by Section 138 of the General and Business Corporation Act of Missouri, and to pay a Twenty-five Dollar (\$25.00) annual fee prescribed by Section 140 of said act.

Respectfully submitted,

APPROVED:

ROBERT R. WELBORN
Assistant Attorney General

J. E. TAYLOR
Attorney General

RRW/feh