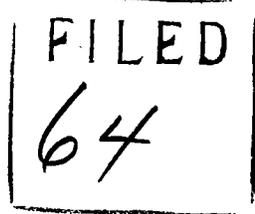


TAXATION AND REVENUE:

Federal credit unions not required to collect the tax imposed upon the accounts of their members.

December 11, 1947



Mr. M. E. Morris, Director
Department of Revenue
Jefferson City, Missouri

Dear Sir:

Reference is made to your inquiry of recent date as to whether or not Federal credit unions may be required to collect and remit the tax imposed upon the accounts of their members under H.C.S.H.B. No. 407 of the 64th General Assembly.

The act mentioned relates to the taxation of the accounts of members of credit unions. Such accounts have been by the act classified as intangible personal property and the literal meaning of the phraseology employed in the act makes its provisions applicable to both credit unions organized under State laws and those organized under Federal laws. A portion of two sections of the act are deemed pertinent:

"Section 3. There is hereby imposed upon each person, either natural or corporate, holding personally or in trust, an account in a credit union, an annual tax of two per cent (2%) of the taxable portion of the dividends declared and credited by such credit union to such account in the preceding year. * * *

"Section 4. * * * The credit union shall compute, withhold and pay to such director on or before such dates the amounts of all taxes imposed hereby upon its members, such payment to be made in one remittance, and the credit union to have the right, at its option, to absorb such taxes without charging the same to the particular accounts."

In view of the fact that your inquiry relates to the applicability of the latter provision to Federal credit unions, we believe it germane to point out the provisions relative to State taxation of the accounts of such Federal instrumentalities. Title 12, U.S.C.A., Section 1768, reads as follows:

"The Federal credit unions organized hereunder, their property, their franchises, capital, reserves, surpluses, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such Federal credit unions shall be subject to Federal, State, Territorial, and local taxation to the same extent as other similar property is taxed. Nothing herein contained shall prevent holdings in any Federal credit union organized hereunder from being included in the valuation of the personal property of the owners or holders thereof in assessing taxes imposed by authority of the State or political subdivision thereof in which the Federal credit union is located: Provided, however, That the duty or burden of collecting or enforcing the payment of such tax shall not be imposed upon any such Federal credit union and the tax shall not exceed the rate of taxes imposed upon holdings in domestic credit unions."
(Emphasis ours.)

That the Congress has the power to exempt the property of Federal instrumentalities and their shares and shareholders from State and other local taxation has long been well settled. Having such power to grant exemption, it seems that the Congress may attach reasonable restrictions upon the taxing authorities when exemption is waived. A similar waiver is found with respect to the taxation of national banks, under which only one of four prescribed methods may be followed by States in taxing such banks. Title 12, U.S.C.A., Section 548. Logically, then, it follows that the restrictions embodied with respect to the taxation of Federal credit unions are within the power of the Congress and that they take precedence over State taxing statutes.

CONCLUSION

In the premises, we are of the opinion that the provisions of H.C.S.H.B. No. 407 of the 64th General Assembly, requiring credit unions to compute, withhold and pay to the Director of Revenue of the State of Missouri the tax imposed upon the accounts of members of such credit unions, are inapplicable to Federal credit unions.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General

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