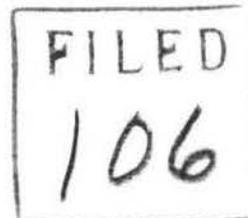


TAXES--CREDIT UNIONS:  
TAXES--SAVINGS AND LOAN ASSOCIATIONS:  
REFUNDS--CREDIT UNIONS:  
REFUNDS--SAVINGS AND LOAN ASSOCIATIONS:  
CREDIT UNIONS--OVERPAYMENT OF TAXES:  
SAVINGS AND LOAN ASSOCIATIONS--  
OVERPAYMENT OF TAXES:

Credit may not be allowed and refund cannot be made to Credit Unions and Savings and Loan Associations for overpayment of taxes paid under Chapter 148. Refunds can be claimed by individual members of such institutions.

April 16, 1965

OPINION NO. 106



Mr. Thomas A. David  
Director of Revenue  
Department of Revenue  
Jefferson City, Missouri

Dear Mr. David:

Reference is made to your request for an opinion in regard to issuing refunds or credit slips for taxes overpaid by Credit Unions and Savings and Loan Associations. Your request is stated as follows:

"We request an official opinion from you with reference to issuing refunds or credit slips for taxes overpaid by Credit Unions and Savings and Loan Associations.

"In reading Revised Statutes of Missouri, 1959, Chapter 148, which pertains to Credit Unions and Savings and Loan Associations, we fail to find any reference to refund of taxes overpaid or the issuing of credit slips. Please advise if this office can allow a refund, or issue credit slips; also, advise relative to the application of the statute of Limitation for the period in which to apply for such refund or credit."

Section 148.250 RSMo 1959, imposes a tax upon each person holding an account in a Credit Union. The amount of the tax is two per cent of the taxable portion of the dividends credited to the account of each person. Section 148.270 RSMo Cum. Supp. 1961, requires the Credit Union to compute, withhold and pay the amount of taxes imposed upon the members of the Credit Union by Section 148.250. Therefore, although the credit union is required to withhold and pay the tax, the tax is imposed against the individual members of the credit union who is the taxpayer.

Mr. Thomas A. David

Similar provisions apply to Savings and Loan Associations under Sections 148.480 and 148.500 RSMo 1959. A tax imposed upon the members of a Savings and Loan Association must be computed, withheld and paid by the Association.

The statutes make no provision for the issuance of credit slips for taxes overpaid by credit unions and savings and loan associations for the members of these institutions. Therefore, credit slips cannot be issued for such overpayment of taxes.

Section 136.035 RSMo 1959, provides as follows:

"1. The director of revenue from funds appropriated, shall refund any overpayment or erroneous payment of any tax which the state is authorized to collect. The general assembly shall appropriate and set aside funds sufficient for the use of the director of revenue to make refunds authorized by this section or by final judgment of court.

"2. The director of revenue shall refund any overpayment or erroneous payment of any tax on intangible personal property and the amount refunded shall be charged against the next apportionment to the political subdivision which was the residence or situs of the taxpayer at the time the tax was paid.

"3. No refund shall be made by the director of revenue unless a claim for refund has been filed with him within two years from the date of payment. Every claim must be in writing under oath and must state the specific grounds upon which the claim is founded."

It is our opinion that the refunds provided for in this section may be claimed only by the taxpayer upon whom the tax is imposed. In as much as the tax provided for in Chapter 148 is not imposed upon credit unions and savings and loan associations, such institutions cannot claim refunds for the overpayment or erroneous payment of taxes. The individual members of credit unions and savings and loan associations may claim refunds for the overpayment or erroneous payment of taxes within two years from the date of payment. Section 136.035 (3).

Mr. Thomas A. David

CONCLUSIONS

The Director of Revenue cannot issue credit slips for taxes overpaid by credit unions and savings and loan associations. Refunds for the overpayment or erroneous payment of taxes may not be made to credit unions or savings and loan associations for taxes paid pursuant to Chapter 148 RSMo. Refunds by the Department of Revenue for the overpayment or erroneous payment of taxes may be made to the individual members of credit unions and savings and loan associations who are the taxpayers for taxes overpaid pursuant to Chapter 148. Claims for such refunds must be filed with the Director of Revenue within two years from the date of the payment of the taxes.

The foregoing opinion which I hereby approve was prepared by my Assistant, Thomas J. Downey.

Very truly yours,

  
NORMAN H. ANDERSON  
Attorney General