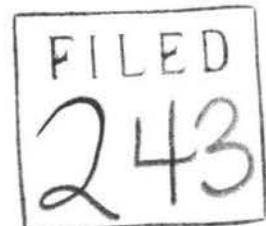


TAXATION (INTANGIBLE): It is the opinion of this office that the intangible tax on Savings and Loan accounts is to be returned, less two per cent for collection, to the county treasury of the county in which the home office of the association is located. The taxes are to be distributed to the county and other political subdivisions in which the home office of the association is located in proportion to their respective local rates of levy.

June 18, 1968

OPINION NO. 243



Honorable Maurice Schechter
Senator, 13th District
41 Country Fair Lane
Creve Coeur, Missouri

Dear Senator Schechter:

This is in answer to your request of March 27, 1968, which reads as follows:

"A savings and loan association maintains a branch office in the City of Olivette, Missouri. The home office of the association is located in another city in this State. In its Olivette branch office, it opens, processes and otherwise handles accounts for its members. However it makes a single return of the intangible property tax and shows as its residence the city in which its main office is located. Thus no part of the intangible property tax which it pays is returned to the City of Olivette and all such funds are returned to the city in which the main office is located.

Sections 148.470 to 148.530 R.S. Mo. 1959 pertain to intangible property tax for saving and loan associations and the statutes do provide that one return shall be made and I do know that the proceeds of such tax are forwarded to the city in which

Honorable Maurice Schechter

the saving and loan association does maintain its principal office. I would appreciate receiving your Opinion, at your earliest convenience, to determine if this procedure is correct or if part of such proceeds should not be remitted to the various cities and other political subdivisions in which branch offices are located."

In a subsequent telephone conversation, you informed us that the home office was located in University City, Missouri. Both University City and Olivette are located in St. Louis County.

An account in a Savings and Loan Association is subject to a tax levied in accordance with Section 148.480, RSMo 1959. That section states:

"There is hereby imposed upon each person, either natural or corporate, holding personally or in trust, an account in an association, an annual tax of two per cent of the taxable portion of the dividends declared and credited by such association to such account in the preceding year."

Section 148.500, RSMo 1959, specifies that the tax shall be paid in the following manner:

"The association shall compute, withhold and pay to the director of revenue on or before the first day of June of each year, the amounts of all taxes imposed hereby upon its members by Sections 148.470 to 148.530, such payment to be made in one remittance, and the association at its option may absorb such taxes without charging the same to the particular accounts." (Emphasis added).

The preceding section requires the association to file an aggregate tax return which reflects the tax owed by all its members. The association may absorb the cost of these taxes itself or it may charge them to the accounts of their members. In either case, it is the association which is required to file the tax return.

Article X, Section 4(c), Constitution of Missouri, deals with the distribution of taxes collected on intangible personal property. That provision states:

Honorable Maurice Schechter

Section 4(c) "All taxes on property in Class 3 and its subclasses, and the tax under any other form of taxation substituted by the general assembly for the tax on bank shares, shall be assessed, levied and collected by the state and returned as provided by law, less two per cent for collection, to the counties and other political subdivisions of their origin, in proportion to the respective local rates of levy."

The Savings and Loan Associations intangible tax law with which we are presently concerned was enacted in 1945. The law does not contain any provisions providing for a return of portions of the tax money to the counties and its political subdivisions. However, a former opinion of this office, Op. Atty. Gen. No. 64, Morris, 8-13-47, held that the proceeds collected pursuant to this law were to be distributed "in the same manner as those collected under other intangible personal property tax laws." The basis for that holding was the constitutional provision quoted above.

The general intangible tax law is found in Chapter 146. Section 146.110, RSMo 1959, states that the intangible tax, less two per cent, is returned to the county treasury of the county where the taxpayer is domiciled or where the intangible property had its business situs. Local rates of levy are applied to determine the exact amount due each political subdivision. Section 148.080, RSMo 1959 provides that the intangible bank tax be returned, less two per cent, to the county treasury of the county in which the taxpayer is located. The intangible tax on insurance premiums is returned to the county treasurer and treasurer of school district in which the principal office of the company is located. Section 148.330, RSMo 1959. Section 148.220, provides that the intangible tax levied against Consumer Credit institutions be returned to the county treasury of the county in which the taxpayer is located.

In all of the foregoing laws, only one taxpayer or one business situs, or one office is contemplated in determining the location of the county and political subdivisions which are to receive the intangible tax proceeds. The Savings and Loan intangible tax provisions are consistent with this when they require that only one tax return be filed. It is our opinion that this one return is to be filed by the home office and that the business residence of the home office will determine the county which is to receive the tax money, notwithstanding the fact that branch offices are located in other counties.

Honorable Maurice Schechter

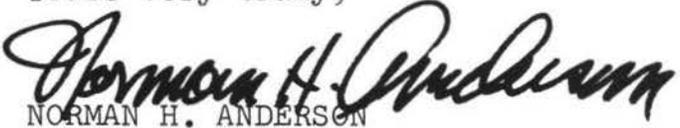
However, our problem goes beyond this. The branch office of the association is located in the City of Olivette and the home office is in University City both of which are in St. Louis County. The Director of Revenue allocates the tax money to St. Louis County and to University City and to other political subdivisions in which the home office of the association is located, but no part of it is returned to the City of Olivette. The rationale behind this is that the business address of the home office is University City and only those political subdivisions in which the home office is located are entitled to share in the proceeds of the tax. This seems to be the reasonable meaning of Article X, Section 4(c) of the Constitution when it says that taxes shall be returned ". . . . to the counties and other political subdivisions of their origin. . . ." (emphasis added). It is important to note that the Constitution does not say that the proceeds shall be returned to the counties and their political subdivisions in which case all of the respective subdivisions would seem to be included.

CONCLUSION

It is the opinion of this office that the intangible tax on Savings and Loan accounts is to be returned, less two per cent for collection, to the county treasury of the county in which the home office of the association is located. The taxes are to be distributed to the county and other political subdivisions in which the home office of the association is located in proportion to their respective local rates of levy.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Gary G. Sprick.

Yours very truly,


NORMAN H. ANDERSON
Attorney General