INTEREST:
STATE TREASURER:

In computing interest with respect to time deposits of state moneys, the State Treasurer should apply with respect to deposits held by the bank for any calendar quarter or portion of a calendar quarter, the formula rate which is applicable for the quarter in which those deposits are held. The applicable formula rate is the rate computed as set forth in the statute which is compiled from data available in the quarter prior to the quarter in which the deposits are held and which formula rate is computed within the quarter in which the deposits are held. If the maximum rate permitted by federal law is less than the formula rate then that figure must necessarily be used.

OPINION NO. 279

June 19, 1970

FILED
279

Honorable William E. Robinson
State Treasurer of Missouri
State Capitol Building
Jefferson City, Missouri 65101

Dear Mr. Robinson:

You have recently requested that we advise you with regard to the correct procedure in computing interest in conformity with Section 30.265 which was enacted in 1969.

Section 30.265 (3) and (4) provide:

> "3. Promptly following the close of each calendar quarter the state treasurer, after consulting one or more sources he deems to be reliable, shall determine the average rate of accepted competitive bids for thirteen week United States of America treasury bills issued during the calendar quarter last closed and the rate so determined from calendar quarter to calendar quarter minus one-half of one percent, adjusted by the state treasurer to the closest one-tenth of a percent, shall be the formula rate for the calendar quarter in which such determination is made.

> "4. The rate of interest payable by banking institutions on time deposits of state moneys for any calendar quarter or portion thereof during which the particular depositary holds a particular time deposit of state moneys shall be the lesser of:
>
> "(1) The formula rate applicable to the particular calendar quarter, or
>
> "(2) The maximum rate of interest which by federal law or regulation a bank which is a member of the federal reserve system may lawfully contract to pay on the particular account in which the time deposit is made at the time such account is opened."

In your opinion request, the question that is presented is stated as follows:

> "At the present time, the regulation to which reference is made provides a rate of 6.75%. We should appreciate having your advice as to the correct procedure in our computation of interest. For instance, should we use the average for the previous calendar quarter to figure the interest on maturities until the end of the next calendar quarter and figure the interest at the maturity of a 90-day period and not on a calendar quarter basis?"

Section 30.265 (2) further requires that contracts with respect to time deposits of state money shall require that the deposits may be withdrawn by the State Treasurer not less than 90 days after the date of deposit or 90 days after the last preceding date on which the deposit might have been withdrawn. It seems apparent, therefore, that the legislature contemplated that the contracts through which state moneys are to be deposited in banking institutions are to specify a term of 90 days and that the funds are to be available to the Treasurer at 90 day intervals.

In Section 30.265 (4) (2) the legislature recognized that under federal law a maximum rate of interest which may be paid by banks is imposed and, of course, the legislature cannot require that the contracts yield a higher rate of return than is permitted.

Your question relates to the method of computing the formula rates which, if it is lower than than the maximum rate, is the rate which the Treasurer is to receive under his contracts for the deposit of state money.

The method of computing the "formula rate" is set forth in Section 30.265 (3). The yield is to be determined promptly following the close of each calendar quarter and is to consist of the average rate of accepted competitive bids for thirteen-week United States of America treasury bills issued during the calendar quarter last closed. That is, at the conclusion of, say, the first calendar quarter, the Treasurer is to determine the average rate of the described treasury bills that were issued during the first quarter. The rate determined in this fashion minus one-half of one percent is described as the formula rate.

It is apparent that the legislature contemplated that the Treasurer is to re-determine the formula rate at the conclusion of each calendar quarter. Section 30.265 (3) provides that the Treasurer shall "promptly following the close of each calendar quarter" determine the rate as described above and, furthermore, the legislature described the rate as "so determined from calendar quarter to calendar quarter." Thus, the Treasurer by applying the statutory procedure will arrive at a "formula rate" at the conclusion of each calendar quarter. The final question is to what time period does the formula rate apply.

The concluding clause of Section 30.265 (3) provides:

> ". . .(The rate) shall be the formula rate for the calendar quarter in which such determination is made."

At the conclusion of each quarter, the Treasurer is to determine the formula rate. The formula rate, derived from each quarter must of necessity be computed during the next quarter and is the formula rate applicable under Section 30.265 (4) for moneys in the calendar quarter or portion thereof "during which the particular depository holds a particular time deposit. . . ."

Thus, where moneys are deposited for a time period which will include a portion of the second quarter and a portion of the third quarter, the rates determined in the second quarter (from data derived from the first quarter) will govern for the deposit in the bank in the second quarter and the rate determined in the third quarter (from data compiled in the second quarter) will govern for the time that the moneys were held in the bank in the third quarter. Where the 90 day deposit period encompasses more than one quarter, the Treasurer must apply two formula rates and the amount of interest to be received for the 90 day period will be computed by applying the applicable rates to the number of days falling within the quarter to which that rate applies.

CONCLUSION

It is, therefore, the opinion of this office that in computing interest with respect to time deposits of state moneys, the State Treasurer should apply with respect to deposits held by the bank for any calendar quarter or portion of a calendar quarter, the formula rate which is applicable for the quarter in which those deposits are held. The applicable formula rate is the rate computed as set forth in the statute which is compiled from data available in the quarter prior to the quarter in which the deposits are held and which formula rate is computed within the quarter in which the deposits are held. If the maximum rate permitted by federal law is less than the formula rate then that figure must necessarily be used.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Craft.

Yours very truly,

John C. Danforth

JOHN C. DANFORTH
Attorney General