

April 2, 2001

Celia Woodham, Director of Compliance
Chartway Federal Credit Union
160 Newtown Road
Virginia Beach, Virginia 23462-2415

Re: Not-for-profit and Tax-exempt Status of Federal Credit Unions.

Dear Ms. Woodham:

You wrote to ask the National Credit Union Administration's (NCUA's) Office of General Counsel to provide information about the not-for-profit and tax-exempt status of federal credit unions (FCUs). A consumer credit company recently changed its policy to accept proposals for payment arrangements only from entities with nonprofit tax status under §501(c)(3) of the Internal Revenue Code (I.R.C.). The company now refuses to accept payment arrangement proposals from your FCU, a defense credit union, for your members. Although FCUs are not covered under §501(c)(3), they are not-for-profit and tax-exempt under §501(c)(1) of the I.R.C. and under the FCU Act. In addition, United States Department of Defense (DoD) regulations require certain credit unions to provide financial counseling free-of-charge to their members.

FCUs are not-for-profit, cooperative financial institutions, owned and run by their members. NCUA, an independent federal government agency, charters, supervises, and insures FCUs. Due to their not-for-profit, cooperative nature, FCUs are exempt from both federal and state income taxes. I.R.C. §501(c)(1); 12 U.S.C. §1768. Organizations that are tax-exempt under §501(c)(1) do not have to file an informational return or make it available for inspection. Rev. Rul. 89-94, 1989-2 C.B. 233 (1989).

In addition, DoD has promulgated regulations that establish procedures governing defense credit unions operating branches on DoD installations. These regulations require that the credit union make available a qualified financial counselor to serve members during operating hours. 32 C.F.R. Part 231a, Appendix A at A.1.c. The regulations also provide that: "Members of Defense credit unions shall have access to free counseling service. Members . . . shall receive help in budgeting and solving financial problems. Military members in junior enlisted grades who apply for loans shall receive special attention." *Id.* at B. The DoD is planning to issue a final rule revising these regulations soon, but plans to retain these requirements.

Sincerely,

Sheila A. Albin
Associate General Counsel

GC/RMM:bhs
SSIC 3500
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