

October 3, 1996

Jerilynn Gordon  
Illinois Department of Revenue  
Office of Legal Counsel  
P.O. Box 19477  
Springfield, Illinois 62794

Re: Federal Credit Union Tax Exemption

Dear Ms. Gordon:

The National Credit Union Administration (NCUA) is an independent agency in the executive branch of the Federal government charged with regulating, supervising and insuring federally chartered credit unions. The NCUA has received several complaints from federal credit unions claiming that local tax authorities in the Chicago area failed to recognize their tax exemption during a recent NCUA co-sponsored conference. Our attempts to informally resolve this matter with your department have been unsuccessful. We are hoping that your office could review the basis for the tax exemption and advise the department to permit credit unions to apply for a refund of the improperly collected tax.

Section 1768 of Title 12 of the United States Code states that:

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; but the duty or burden of collecting or enforcing the payment of such a 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.

This exemption includes state and municipal taxes such as hotel taxes and night occupancy taxes where the obligation of paying the tax falls on the federal credit union. The 9th Circuit Court of Appeals decided on September 9, 1996, that this exemption applied to transient occupancy taxes as well. That opinion is enclosed.

If, after reviewing the statute and case law, your office believes that Illinois has the right to collect the tax, we would appreciate an explanation. If you have any questions please have your office contact Michael McKenna of this office at 703-518-6540.

Sincerely,

Robert M. Fenner  
General Counsel

GC/MJMcK:bhs  
SSIC 3501  
96-0914

Enclosure