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TAXATION—TANGIBLE PERSONAL PROPERTY—SALES TO  
FEDERAL CREDIT UNIONS EXEMPT FROM OHIO EXCISE  
TAX—5739.02 (B) (11) RC.

SYLLABUS:

Sales of tangible personal property to federal credit unions are not subject to Ohio sales tax.

Columbus, Ohio, April 9, 1957

Hon. Stanley J. Bowers, Tax Commissioner  
Department of Taxation, Columbus, Ohio

Dear Sir:

I have your request for my opinion which reads as follows:

“I respectfully direct your attention to those portions of the Ohio sales tax law (section 5739.02, sub-paragraph (B) (11) which provide:

“(B) The tax does not apply to the following:

“(11) Sales not within the taxing power of this state under the constitution of the United States;”

“I also direct your attention to previous ruling of the Ohio Attorney General dealing with the application of the tax to purchases by National Banks (1939 OAG 176), Federal Land Banks (1939 OAG 177) and Federal Savings and Loan Associations (1939 OAG 306).

“It has been the position of the Department of Taxation that federally chartered credit unions organized under Chapter 14 of Title 12 of the United States Code are sufficiently similar to federal savings and loan associations as to subject their purchases to the ruling applicable to such associations. However, I am advised that the Federal Department of Health, Education and Welfare, within whose jurisdiction the administration of said chapter of the United States Code lies, holds that it is beyond the power of the State of Ohio to impose its sales tax on purchases made, in Ohio, by a federal credit union.

“Your opinion is therefore requested on the following question :

“Are sales of tangible personal property to federal credit unions organized under Chapter 14, Title 12, United States Code, subject to Ohio sales tax?”

Federal credit unions are instrumentalities of the federal government organized under Title 12, Sections 1751 *et seq.*, U. S. Code, “The Federal Credit Union Act.” Section 1768 of that act provides :

“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: Provided, however, that the duty or burden of collecting or enforcing the payment of such 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.”

(Emphasis added)

It is noted that Congress has, by use of broad language, extended to the agency in question an absolute exemption from state taxation. By further delineation, however, that exemption has been retracted in the areas of tangible personal and real property taxation. The latitude allowed the states with regard to property taxes cannot be said to be inclusive of excise taxes such as the Ohio Sales Tax. The statutory exemption is clear and concise. The time-honored rule of strict construction of exemption statutes can be of no avail in such a case. In the instant situation it is therefore my opinion that Federal credit unions are exempt from the Ohio Sales Tax.

This is not to suggest, however, that I am in disagreement with the cited opinion of my predecessors. My opinion here is, in fact, a reaffirmation of the legal principles adduced by my predecessors in Opinion No. 176, Opinions of the Attorney General for 1939, p. 200, and Opinion No. 177, Opinions of the Attorney General for 1939, p. 205, wherein it was

held that National banks and Federal land banks were exempt from the Ohio Sales Tax.

In Opinion No. 306, Opinions of the Attorney General for 1939, p. 369, it was held that sales made to Federal savings and loan associations were subject to the Ohio Sales Tax. Title 12, Section 1464, subsection (L), U. S. Code, the exemption provision for federal savings and loan associations, then in effect, read:

“Such associations, including their franchises, capital, reserves and surplus, and their loans and income, shall be exempt from all taxation now or hereafter imposed by the United States, and all shares of such associations shall be exempt both as to their value and the income therefrom from all taxation (except surtaxes, estates, inheritance, and gift taxes) now or hereafter imposed by the United States; and no state, territorial, county, municipal or local taxing authority shall impose any tax on such association or their franchises, capital, reserve, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.”

It must be noted that no exemption from state taxation is granted to Federal savings and loan associations by the above cited statute. The requirement of taxing Federal associations in the same manner as state associations is the only restriction on the power of the state to tax.

The state's power to tax Federal credit unions, however, is completely denied as a basic premise. That general exemption is limited by particularized qualifications.

Accordingly, in specific reply to your question, it is my opinion that sales of tangible personal property to federal credit unions are not subject to Ohio Sales Tax.

Respectfully,  
WILLIAM SAXBE  
Attorney General