



Credit Union National Association

cuna.org

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July 31, 2007

The Honorable Kevin M. Brown
Acting Commissioner
Internal Revenue Service
111 Constitution Avenue, NW
Washington DC 20224-0001

Dear Acting Commissioner Brown:

On behalf of the Credit Union National Association, I must strongly object to the language in your June 28, 2007 letter to the Senate Finance Committee regarding credit unions.

Under the general heading of "Key Current Compliance Issues," the letter includes a discussion of Exempt Organizations (sic) Compliance Issues" and lists "A blurring of the line between the tax-exempt and commercial sector" as the number two problem in this area. Included in this discussion is the wrongful portrayal of credit unions as "hard to distinguish from for-profit banks" -- thereby undermining the justification for credit unions' exemption from federal income taxation.

The letter also attempts to label credit unions as guilty by associating them with other industries that have recently received considerable public scrutiny in response to charges they should no longer be tax exempt.

As you know, it is Congress that determines which organizations are tax-exempt. In 1998, when Congress passed the Credit Union Membership Access Act, it reaffirmed the rationale which justifies credit unions' exemption in the Act's findings:

Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means. (PL 105-219, 112 STAT. 913)



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These are critical distinctions that not only Congress but also the President has recognized. In 2004, in a letter to CUNA, President Bush stated:

"I strongly support the tax-exempt status of credit unions, and will continue to highlight the important contributions that credit unions make to our financial system."

The President further described credit unions as "service-oriented, member-owned financial cooperatives," characteristics that make credit unions unique among all types of financial institutions in this country. He was clearly reflecting what Congress has consistently established, that credit unions are distinguishable from banks in the democratic way they are organized and serve their members.

The IRS's difficulty in recognizing the differences between credit unions and commercial banks has manifested itself in the agency's treatment of unrelated business income taxation for state chartered credit unions. This year, the IRS has issued a number of technical advice memoranda that wrongfully subject activities such as the sale of credit life insurance to UBIT, even though those activities and products are financial services that directly further the mission and purpose of credit unions as nonprofit member-owned financial cooperatives.

The IRS's letter fails to recognize the very significant benefit that credit unions provide their members in the way of better service and more favorable rates on savings and loans as a number of studies have shown.

The letter also ignores the sizeable federal tax breaks and subsidies offered to the banking system as identified in a recent Government Accountability Office study (GAO 07-593R, "Banking Activities"). Despite endless complaints of banker groups, including communications with the IRS about credit unions' exemption, the GAO study demonstrates that thirty-one percent of all banks bypassed corporate income taxes last year because they became Subchapter S Corporations. The study emphasizes that banks continue to amass record profits, despite unfounded charges that credit union's tax exemption hurts bank profitability. Further, the study states that several banks have set up "abusive" tax shelters that have resulted in the loss of millions of dollars in tax revenues. Rather than a groundless pursuit of credit unions, we question why the IRS is not reviewing banks' tax avoidance schemes, in light of this important GAO study.

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We remain very concerned that the highest ranking officials at the IRS have been provided the banker perspective while credit union representatives have not been afforded similar interaction at this level (we have been able to meet with some IRS officials but without full knowledge of the range of banker's charges). In 2002, Commissioner Charles Rossotti met with banking industry representatives, and we were only made aware of this earlier this year.

More importantly, despite a Freedom of Information Act request filed by CUNA dating back to 2003 for communications between banker groups and the IRS regarding credit unions, it was not until 2007 that the IRS provided those communications to us -- allowing five years for the banker complaints to gain support within the IRS without the ability of credit unions to respond fully to the banks' biased charges.

Nothing has changed since the President commended credit unions in 2004 that would justify denying the federal tax exemption for any credit union or an arbitrary application of UBIT to state credit unions. We urge your attention to our concerns and request the opportunity to meet with you to discuss these matters in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Mica", is written over the word "Sincerely,".

Daniel A. Mica
CUNA President and CEO

Cc: Chairman Max Baucus, Senate Finance Committee
Chairman Chris Dodd, Senate Banking Committee
Ranking Member Charles Grassley, Senate Finance Committee
