Credit Union National Association
CUNA

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The Honorable Orrin Hatch, Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Hatch:

On behalf of the Credit Union National Association (CUNA), I am writing regarding a letter recently delivered to you from the National Taxpayers Union (NTU), and others, urging the Senate Finance Committee to evaluate the federal income tax status for large credit unions. CUNA represents America's credit unions and their 110 million members. Credit unions are Americans' best option for financial services, and the credit union tax status represents one of the best investments that the government makes in its citizens.

Unfortunately, NTU's letter falsely characterizes credit unions, their mission, and the actual statutory rationale for the credit union tax status. The group claims (on one hand) that credit don't do enough to serve lower-income households but (on the other hand) attacks credit unions that seek to expand their membership to serve those groups. Finally, NTU significantly overstates the budgetary impact of imposing new taxes on credit unions and their 110 million members – and completely ignores the negative effects of doing so.

NTU's letter ignores the facts. The American credit union movement began as a cooperative effort to serve the productive and provident needs of wage earning, working-class people – NOT "unbanked" or "low income" individuals.[1] Credit unions of all sizes – both large and small - are distinguished by member-ownership, democratic control and not-for-profit status – a structure that has not changed one bit over their nearly 100 years of existence. This structure is unique in the marketplace – no other class of financial institutions is democratically owned by its depositors.

Since their inception in the early 1900's a majority of credit unions have operated with narrow fields of membership – many based on occupational groups such as teachers, firemen, policemen, manufacturing facility employees – therefore having no ability to serve low income or unbanked individuals. Credit unions view outreach to unbanked or low-income individuals as desirable. But those that do so repeatedly find themselves embroiled in litigation brought on by bankers aggressively seeking to limit credit union service – even though such expansion would directly and significantly help disadvantaged consumers.[2]

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[1] 14 USC 12 § 1751. Congress originally conveyed an exemption from federal income tax to state and federally chartered credit unions because of their unique ownership structure and special mission. This was reaffirmed most recently in the preamble to the 1998 Credit Union Membership Access Act (H.R. 1151), which states: *"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."*

Although some try to equate people of "modest means" and "low income", it is clear from many references in the legislative history surrounding the Federal Credit Union Act and amendments that the intention was significantly broader, encompassing the masses of average working-class individuals. Congress had multiple opportunities to more narrowly define the term "modest means" since the original Federal Credit Union Act of 1934, but has never done so.

[2] The National Credit Union Administration (NCUA) is now embroiled in one of these lawsuits.

The credit union tax status has absolutely nothing to do with credit union common bond. The original role of the common bond was to control/reduce credit losses in an era when little was known about borrower creditworthiness. Today, widespread credit reporting provides all lenders with ample access to borrower creditworthiness – eliminating the fundamental need for that construct. More importantly, common bonds are viewed by regulators as creating safety and soundness concerns arising from concentration of risk in a single sector, company or associational group.[3]

Contrary to the NTU claim, the legacy of tightly-defined credit union fields of membership, primarily based on employer groups, means that credit unions have disproportionately served wage earning, working-class people from their beginnings nearly a century ago. Today, nearly two-thirds of credit unions, serving over one-half of credit union members continue to reflect significantly restricted fields of membership, and all credit unions are bound by field of membership requirements. Contrary to NTU claims, larger credit unions are more likely than their smaller counterparts to serve narrow fields of membership. Overall, 60% of members at large credit unions belong to credit unions that do not have community charters.

The myth of bank harm arising from charter differences is clearly refuted in two facts. First, an uneven playing field, if one existed, would produce outsized market share gains for an advantaged class of institutions. However, credit union market share is essentially unchanged over the past quarter-century. In 1992 credit unions controlled 6% of depository assets (banks had a 94% share) and at the end of 2017 credit unions collectively controlled 7% of depository assets (banks had a 93% share). Policy makers looking for an uneven playing field might look to big banks. For example, the largest 100 U.S. banks controlled a 41% market share of depository assets in 1992 – but the largest 100 banks now control 75% of the total. Second, one of the defining characteristics of the U.S. depository charting system is ease of entry and exit. Banks suffering from the uphill battle presumed by NTU have every opportunity to convert from their existing bank charter to a credit union charter. In modern history only two have done this.

The NTU letter greatly overstates true revenue impacts since the OMB estimate cited by NTU does not reflect recent changes to the U.S. tax code. The new tax law includes a permanent reduction in the statutory C corporation tax rate to 21%. This will have the effect of reducing the OMB revenue impact by about 40% - from $35 billion over the next decade to roughly $21 billion over the next decade. Taxing credit unions would do very little in terms of addressing U.S. government budget issues. If credit unions were taxed in 2017, the receipts (according to OMB estimates at that time) would have accounted for only 0.07% of federal spending, which would have funded federal government operations for only seven hours.

Contrary to what NTU implies, credit unions and their employees already are saddled with substantial tax burdens. CUNA estimates this burden using IMPLAN modeling, focusing on federal, state and local taxes and including employer, employee, excise, property, motor vehicle and sales taxes. The estimates exclude taxes generated from credit unions purchasing intermediate goods and services—such as office supplies and contractors—and from household spending by credit union employees in the local economy. Using the IMPLAN model we find credit unions and their employees directly paid an estimated $4.2 billion in federal taxes and $2.4 billion in state and local taxes in 2016 alone.

[3] The NCUA and other policymakers argued that the expansion of credit union membership was necessary for the financial health of the industry, particularly to prevent risky concentration of loan portfolios in one occupational sector, firm or association. For instance, former NCUA Chairman Norm D'Amours argued that the legislation would allow "diversification of credit union membership in order to safeguard against economic conditions that affect specific groups or industries" (D'amours, 1998). The Assistant Secretary of the Treasury at the time, Rich Carnell, also testified that diversifying the membership base can make an institution "more resilient in the face of problems experienced by any one local employer" (Carnell, 1998).

The 110 million consumer-owners of credit unions are likewise saddled with a substantial tax burden. Any new tax on credit unions is an additional direct tax on these consumers. U.S. credit union members paid an estimated total of $1.6 trillion in state and federal income taxes during the most recent federal tax year.

Finally, changing the credit union tax status would likely result in many credit unions converting to bank charters – essentially eliminating cooperative, member-owned institutions from the marketplace and eliminating nearly $11 billion in direct financial benefits that currently accrue to credit union members. Fewer credit unions also would result in fewer societal benefits including a reduction in billions of indirect financial benefits that accrue to bank customers and innumerable benefits to the economy arising from the fact that (unlike banks) credit unions serve as a counter-cyclical force during economic downturns.[4]

CUNA and our member credit unions are always eager to tell our story and the "credit union difference." My staff and I look forward to continuing to work with you as well as the staff and Senators on the Senate Finance Committee. On behalf of America's credit unions and their 110 million members, thank you very much for your consideration of our views.

Sincerely,

Jim Nussle
President & CEO

[4] Note banks are owned by outside stockholders who demand market rates of return on their investments and bank CEO pay is largely dependent on stock performance. Historically, this has been shown to cause banks to take much greater risks than credit unions – rendering them incapable (or substantially less capable) of lending to consumers during severe economic disruptions.