



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS**

**AUSTIN**

**GERALD C. MANN**  
ATTORNEY GENERAL

**Honorable Charley Lockhart**  
State Treasurer  
Austin, Texas

Dear Sir:

Attention: Mr. Stevens

Opinion No. 0-1550  
Re: Whether mortgages taken  
by Federal credit unions  
are subject to stamp tax.

We are pleased to comply with your request for our opinion as to whether instruments of security taken by Federal credit unions are subject to the stamp tax levied by the State of Texas upon the recording of lien instruments under Article 7047e, Vernon's Annotated Civil Statutes, as amended by Senate Bill No. 24, 46th Legislature.

The organization of Federal credit unions is authorized by ch. 14, 15 U.S.C.A., beginning with Section 1751. One of the functions of such organizations is the making of loans to its members. Section 1767, U.S.C.A., reads as follows:

"Each Federal credit union organized under this chapter, when requested by the Secretary of the Treasury, shall act as fiscal agent of the United States and shall perform such services as the Secretary of the Treasury may require in connection with the collection of taxes and other obligations due the United States and the lending, borrowing, and repayment of money by the United States, including the issue, sale, redemption or repurchase of bonds, notes, Treasury certificates of indebtedness, or other obligations of the United States; and to facilitate such purposes the Governor shall furnish to the Secretary of the Treasury from time to time the names and addresses of all Federal credit unions with such other available information concerning

them as may be requested by the Secretary of the Treasury. Any Federal credit union organized under this chapter, when designated for that purpose by the Secretary of the Treasury, shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary of the Treasury."

Section 1768, U.S.C.A., provides as follows:

"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. As amended, Dec. 8, 1937, c. 3, § 4, 51 Stat."

We have expressed the opinion that mortgages taken by national banks are not subject to the tax levied by the statute. Opinion No. 0-874. And, in the case of Federal Land Bank vs. Grosland, 261 U.S. 374, 67 L. Ed. 703, the Supreme Court of the United States held that the Federal land banks were not subject to a similar tax levied by the State of Alabama.

The organizations under consideration are formed for

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private benefits in large part. However, the State is expressly allowed to levy certain taxes upon their properties. Section 1767 makes them agents of the United States for the performance of certain things beneficial to the Federal Government. Section 1768 extends to them certain exemptions from State taxation. Doubtless the Congress felt that it was affording an exemption from local taxation in an equitable proportion to the services expected from such concerns as agencies of the United States. As in the case of national banks and Federal land banks we think the Congress acted within its power in the enactment of Section 1767. We are further of the opinion that the language of that section forbids the levy and collection of this tax as against organizations formed under the Federal Credit Union Act. Your question is answered in the negative.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

/s/  
Glenn R. Lewis  
Assistant

GRL:RS

APPROVED NOV. 2, 1939  
/s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

APPROVED  
OPINION COMMITTEE  
By /s/ B.W.B., Chairman