



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Mike Anglin
Criminal District Attorney
Longview, Texas

Dear Sir:

Opinion No. O-6886
Re: Status of the Universal CIT
Credit Corporation under the
provisions of Article 7047,
Subdivision 15, V.A.C.S., and
liability of said corporation
for state and county occupa-
tion taxes.

This department has received your letter of Octo-
ber 17, 1945, which is in part as follows:

"We would like to have you give us an opin-
ion on the following question:

"The Universal CIT Credit Corporation, a
foreign corporation, doing business in Texas, has
a local branch office in Longview. They loan
money through their branch manager, Mr. S. E. Mc-
Roberts, on automobiles, with security, and on
single signature notes, with no assignment of
wages of the borrower and no power of attorney.
The money loaned is the corporation's money de-
posited in local banks.

Q U E S T I O N S:

- "(1) Does this Company come under Article #7047,
Subdivision 15, known as 'money lenders,'
and are they subject to the annual State
tax of \$150.00, and the County tax of \$75.00,
as occupation tax?
- "(2) Do you construe this article that they would
come under this law, if not under the above

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question, since the branch manager will be an agent of the corporation in lending its money, where he both lends and collects money loaned and remits profits to the home office of the company?"

Article 7047, Subdivision 15, Revised Civil Statutes, 1925, is as follows:

"Money Lenders.--From every person, firm, association of persons, or corporation whose business is lending money as agent or agents for any corporation, firm or association, either in this State or out of it, an annual tax of One Hundred Fifty Dollars (\$150.00). Provided, that if an office is maintained in more than one county, the State tax shall be payable in each county where an office is maintained; and, provided, further, that this Tax shall not apply to persons, firms, or associations who lend money as an incident merely to the real estate business, nor shall said tax apply to banks, or banking institutions regularly organized as such."

The Universal CIT Credit Corporation, a foreign corporation, received a permit to do business in Texas from the Secretary of State on September 20, 1945, to engage in business in Texas for the following purposes:

"To accumulate and lend, purchase and deal in notes, mortgages and other receivables, but without banking or discount privileges."

The Court of Criminal Appeals in the case of Means v. State, 75 S.W. (2d) 953, construed the term "money lender" as follows:

"Nor does the evidence show that Means was a 'money lender' within the meaning of article 7047, subd. 15, R.S. 1925. The article referred to defines a money lender thus: 'Every person, firm or association of persons loaning money as agent or agents for any corporation, firm or association, either in this State or out of it,' is a money lender. It is clear that, if Means was

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loaning his own money, and there is no evidence to the contrary, he was not a 'money lender.'
..."

It is fundamental law that a corporation acts only through its officers or agents, within the scope of their authority, either express or implied. Since one of the purposes authorized by the permit issued by the State of Texas to the corporation was to lend money on notes, mortgages, and other receivables, the act of the branch manager in lending the corporation's own money on automobiles as security was the act of the corporation in lending its own money, and hence, under the decision in the case cited above, neither the corporation nor the branch manager is subject to the provisions of subdivision 15, Article 7047, R.C.S., 1925.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

C. K. Richards
C. K. Richards
Assistant

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