

IN THE MATTER OF THE PETITION OF

"C Bank"

FOR A DECLARATORY RULING

Doc #5747, Effective 11/30/93

Pursuant to RSA 541-A:1, IV, 541-A:2,I(d) and Rev. 209.01, et seq., "C Bank", Federal Identification Number //-----, through their attorneys, //-----, //----- & //-----, petitioned the Department of Revenue Administration with respect to the interest and dividends tax (ID Tax), RSA 77, consequences of a proposed bank conversion. The following determination has been requested:

RSA 77:4 excludes from the ID Tax interest on "deposits in any credit union, savings banks, building and loan association and savings bank of any trust and loan company or a national bank in this state. . . ." This Petition requests a ruling from the Department of Revenue Administration that the New Hampshire branch of an interstate bank is a bank "in this state" for purposes of Section 77:4,I. The effect of such ruling would be to exclude from ID Tax, interest earned on deposits in the New Hampshire branch of "C Bank".

TAXPAYER REPRESENTATIONS:

The Business Reasons for the Transaction: Business reasons include operational efficiency, reduction in costs of regulatory compliance and expanded marketing/operational opportunities as follows:

- (a.) Conversion to a federally-chartered savings bank allows the bank to establish interstate branches which would not be allowable under a state-charter.
- (b.) It is more efficient and cost effective to have one bank with branches in multiple states than to have separately chartered banks in each state.
- (c.) All banking operations can be consolidated in one federally-chartered bank without the requirement of separate capitalization for each state-chartered bank.
- (d.) Conversion eliminates compliance with multiple regulations and regulators. The bank will be regulated only by the Federal Office of Thrift Supervision in conjunction with the Federal Deposit Insurance Corporation. Compliance with regulations of other state and federal regulatory agencies will no longer be necessary.

Description of Transaction:

"E" is the holding company for "C Bank" and New Hampshire "F". New Hampshire "F", in turn, owns all the stock of "D Bank" of New Hampshire. "E" is effecting a multi-step corporate reorganization in the following steps:

- (a.) "C Bank" will be converted to a federal savings bank, "C Bank, FSB"
- (b.) "E" will become a savings and loan holding company;

(c.) "E" and New Hampshire "F" will cause "D Bank" of New Hampshire to be merged with and into "C Bank", FSB; and

(d.) "E" will cause New Hampshire "F" to be merged upstream into "E". The net result is that "E" will own one subsidiary, "C Bank", FSB. The former "D Bank" of New Hampshire will be operated as a branch of "C Bank", FSB. Such interstate branching is authorized under 12 U.S.C. Sect. 1464(r) and 12 C.F.R. Sect. 556.5(a).

Revised Statutes Annotated (RSA) at Issue:

RSA 77:4.

Petitioner's Representations:

To the best of the petitioner's knowledge, the issue which is the subject of this petition is not under examination by the DRA, has not been previously examined by the DRA and any applicable statutory period of limitations has not expired; this issue is not under consideration by the DRA in connection with the return of the prior period, and is not pending in litigation.

FINDINGS:

In view of the foregoing representations and specifically based upon them, the Department of Revenue Administration finds the following:

The Interest and Dividends Tax law excepts from taxation interest from banks in this state. The law states:

RSA 77:4 What Taxable

Income of the following described classes is taxable:

I. Interest from bonds, notes, money at interest, and from all debts due the person to be taxed, except interest from notes or bonds of this state, deposits in any credit union, savings bank, building and loan association, or savings department of any loan and trust company or national bank in this state or in those of any state which exempts from taxation the principal or income of deposits in such institutions in this state owned by residents of that state and notes or bonds of any political subdivision of this state.

[emphasis added]

Therefore, interest from deposits located in a staffed, full service New Hampshire branch of "D Bank" would be excepted from the interest and dividends tax.

RULING:

Depositors receiving interest from the full service New Hampshire branch of "D Bank" would treat such interest as having been received from a bank in New Hampshire for the purpose of filing their interest and dividends tax.

Barbara T. Reid, Assistant Commissioner