

New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit

TSB-A-09(1)MCTMT
Metropolitan Commuter
Transportation Mobility Tax
October 28, 2009

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. Z090713A

Petitioner [REDACTED] President and CEO of [Credit Union] asks whether a federally chartered credit union is an instrumentality as defined in Section 800(b)(1) of Article 23 of the Tax Law. We conclude that federally chartered credit unions are not subject to the Metropolitan Commuter Transportation Mobility Tax (MCTMT).

Facts

Credit Union is a federally chartered credit union in County A. County A is located within the Metropolitan Commuter Transportation District (MCTD). The quarterly payroll expenses of Credit Union exceed \$2,500, and therefore absent an exception Credit Union would be subject to the MCTMT on its employees.

Analysis

The MCTMT is contained in Article 23 of the Tax Law. Section 800(b) of Article 23 defines “employer” for purposes of the MCTMT as follows:

Employer means an employer required by section 671 of this chapter to deduct and withhold tax from wages, that has a payroll expense in excess of two thousand five hundred dollars in any calendar quarter; other than

- (1) any agency or instrumentality of the United States;
- (2) the United Nations; or
- (3) an interstate agency or public corporation created pursuant to an agreement or compact with another state or the Dominion of Canada.

It is not necessary to address the issue of whether or not Credit Union is a federal instrumentality because, as a federally chartered credit union, it is exempt from the MCTMT under Section 1768 of Title 12 of the United States Code (12 USC § 1768).

This statutory provision, states in relevant part:

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.

