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Credit Union Regulatory Improvements Act (CURIA)

On March 15, 2007, regulatory modernization legislation for credit unions was introduced. CUNA worked closely with our Congressional allies to reintroduce CURIA this year as H.R. 1537, the *Credit Union Regulatory Improvements Act of 2007*. Credit unions remain the most highly regulated and restricted of all insured financial institutions, particularly after the passage of the *Credit Union Membership Access Act of 1998 (CUMAA)*, which imposed new, arbitrary, and severe restrictions on credit unions in several areas. Though four technical regulatory relief provisions were enacted in the last session of Congress as part of the *Financial Services Regulatory Relief Act of 2006*, there are several key issues that would help eliminate some of the worst examples of statutory micromanagement that have placed unreasonable constraints on the ability of credit unions and their boards to function efficiently and in the best interests of their members. CURIA would help modernize capital requirements, increase the member business lending cap, enhance the ability of all credit unions to serve the underserved and provide much needed regulatory relief.

For more information, summary, cosponsor update and more, go to:
http://www.cuna.org/gov_affairs/legislative/fli_briefing.html

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Unrelated Business Income Tax (UBIT)

Congress enacted Sections 511-515 of the Internal Revenue Code many decades ago to address concerns that tax-exempt organizations could engage in business activities far beyond the purpose of why they have been given their tax-exemption and, by doing so, present unfair competition to taxed businesses. The tax code does not prevent tax-exempt organizations from undertaking such activities (although other laws may prevent the organization from doing so), but the IRS will subject “unrelated business activities” to a federal unrelated business income tax. States may also have similar taxes on certain activities of tax-exempt organizations.

Legal Authority Subjecting State Credit Unions to UBIT

State chartered credit unions – but not federally chartered credit unions – are subject to the IRS unrelated business income tax (UBIT). Why? The law says that “organizations described in sections 401(a) [pension plans] and 501(c)” of the Internal Revenue Code are subject to UBIT, *except for organizations described in section 501(c)(1)*. For historical reasons of interpretation, federal credit unions derive their federal income taxation from section 501(c)(1) of the Code as “federal instrumentalities of the United States,” as well as from Title I of the Federal Credit Union Act. State chartered credit unions obtain their federal income tax-exempt status from section 501(c)(14)(A), “credit unions without capital stock organized and operated for mutual purposes and without profit.” This section specifically mentioning credit unions was added in the Revenue Act of 1951; until then, state chartered credit unions relied upon a 1917 ruling of the Attorney General for their federal income tax exemption.

The Definition of “Unrelated Business Income”

Unrelated business taxable income is the net income derived by an exempt organization from any “unrelated trade or business” which is “regularly carried on” by the organization. An “unrelated trade or business” is an activity which is not substantially related to the organization’s performance of its charitable, educational or other purpose or function constituting the basis for its tax exemption under Section 501 of the Internal Revenue Code. “Regularly carried on” means the activity is carried on with the frequency and continuity comparable to commercial activities of for-profit entities. The “substantially related” test requires an evaluation of the relationship between the business activity which generates the particular income and the organization’s tax-exempt purposes. An activity is “substantially related” if the

activity contributes to the accomplishment of the organization's exempt purposes other than merely through the production of income, that is, the need for the money generated by the activity does not make it "substantially related." Under the IRS regulations, business activity is substantially related if it "contributes importantly" to the accomplishment of the organization's tax- exempt purposes.

To get the most recent information on UBIT go to:

http://www.cuna.org/compliance/member/eguide/eguide_ubit.html

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