

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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November 20, 1945

To David H. Stevens, State Tax Assessor

I have your memo of November 13th relating to the provisions of Section 143 of Chapter 14 as amended, which provides that the assessed value of real estate owned by a savings bank shall be exempt from the savings bank tax and that such assessed value is to be deducted from the sum of the average amount of deposits, reserve fund and undivided profits.

I note that in figuring the tax under this statute, the starting figure is the sum of the average of the deposits, the average of the reserve fund, and the average of the undivided profits for the period covered by the return and that from this total is deducted either the full amount or three-fifths of the book value of certain investments as of the last day of the period. You also state in your said memo that certain banks have seen fit to reduce the value of the bank premises and to debit the undivided profits and credit the account representing the bank premises, thereby decreasing the liabilities and the total assets. You further state that in some cases the book value is brought down to a figure away below the assessed value, and if any exemption is allowed for the full assessed value, it results in the bank getting a double exemption, because in charging down this item, the bank has already made a deduction in the starting figure, and if the full assessed value is deducted again, the result is a double credit.

From this statement of facts you desire a ruling as to whether in the opinion of this office the intent of the legislature under this statute was to not tax the book value of the bank premises up to the amount on which these premises were taxed locally, or whether the wording of this statute should be taken literally, even though it results in a double exemption.

It is the opinion of this office that the starting figure should be the assessed value, and the book value should not be less than the amount of the assessed value, if the bank claims an exemption according to the assessed value of the real estate owned by the bank. In other words, if the book value is \$50,000 and the assessed value is \$25,000, the bank would be entitled to deduct \$25,000 as an exemption under this statute; but if the bank should place a nominal figure of \$1 as the book value of its real estate and the assessed value should be several thousand dollars, in all fairness to the State, in my opinion, the bank should deduct only the book value, where it is reduced so far below the assessed valuation as to show an apparent intent to evade taxation.

RALPH W. FARRIS
Attorney General

November 20, 1945

To David H. Stevens, State Tax Assessor

Re: Taxation of Savings Banks

I have your memo of November 13th relating to Section 145 of Chapter 14 as amended in regard to the "average of undivided profits" for the period covered by the return. In explanation you state that most banks

close their books every six months. In the meantime the income from all investments is accumulated from week to week in an "Income Account" and when the books are closed the total of this "Income Account" is transferred to the "Undivided Profit Account;" and in arriving at the average of the undivided profits, it has been the custom to consider the undivided profits as shown in the account plus the income as it accumulates in the "Income Account."

You further state . . . that one bank arrives at the average of the undivided profits by taking the total of the "Undivided Profit Account" for five months and the new total for the sixth month, after the accumulated income for the period has been transferred to it, and that this computation results in an average figure more than \$100,000 less than the actual average for the period.

You further state that the treasurer of this bank maintains that the bank is in no position to invest this accumulated income and derives no profit from it, because 90% of the accumulated interest is paid out at the end of the period and does not stay with the bank in the form of deposits; and for this reason you ask for an interpretation of this provision of the statute. . . .

It is my opinion that the wording of the statute, "the average of the undivided profits" means the actual average, and the statute should be construed strictly in favor of the State and that the tax on this bank should be computed in the same manner as is now being used to compute the tax on the other savings banks in the State of Maine.

RALPH W. FARRIS
Attorney General

November 21, 1945

To David H. Stevens, State Tax Assessor

I received your memo . . . in regard to certain savings banks whose condition at the time of the bank holiday was not considered satisfactory, but which were allowed to re-open after having borrowed money from the Reconstruction Finance Corporation through the issue of debentures. You state in your memo that the proceeds from these debentures were mingled with other moneys of the savings banks and became part of all the assets of such banks, many of which are exempt from taxation. You call my attention to Section 143 of Chapter 14, R. S. 1944, as amended, and state that this provision of the statute does not contain any specific application to these debentures and that you desire a ruling from this office as to whether or not the proceeds of these debentures should be considered as part of the deposits, due to the fact that some of the investments made with the money are subject to exemptions.

It is my opinion that these debentures should be included with the deposits, undivided profits and reserves in computing the tax on savings banks.

RALPH W. FARRIS
Attorney General