

Opinion No. 63-171

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BY: OPINION of EARL E. HARTLEY, Attorney General

TO: Jesse D. Kornegay Chief Tax Commissioner New Mexico State Tax Commission
Santa Fe, New Mexico

QUESTION

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Are federally chartered savings and loan associations taxable under N.M.S.A., 48-15-13?

CONCLUSION

Yes.

OPINION

{*396} ANALYSIS

Federal Savings and Loan Associations are instrumentalities of the federal government and are taxable only to the extent allowed by the United States. See **People of California v. Coast Federal Savings and Loan Association**, 98 F. Supp. 311 (1951), **U.S. v. Harper**, 241 F.2d 103 (1957), 12 U.S.C.A. 1464(h) allows the taxation of federally chartered savings and loan associations in the same manner in which state chartered savings and load associations are taxed.

The only question then remaining is whether an ad valorem tax may be levied upon savings and loan associations in New Mexico. The term "savings and loan associations" and "building and loan associations" are synonymous. See N.M.S.A., 48-15-1 (1953).

N.M.S.A., 48-15-13 provides:

"Taxation of building and loan associations. -- All mutual associations shall be listed and assessed for taxation in the following manner: Before the first day of March in each year, the secretary of every building and loan association shall file with the county clerk of the county in which the principal place of business of said association is located, a duplicate statement, verified by the secretary, showing the amount paid into such association by shareholders upon shares of stock issued by it up to the first day of January preceding, and then outstanding, and also the amount loaned up to said date to shareholders and secured by mortgages upon real estate listed for taxation or secured by the stock of such association. The county clerk shall deliver the statement to the

assessor who shall proceed to assess said association for taxation with the amount shown to have been paid into said association up to said first day of January upon outstanding shares of stock, less the amount shown by the statement to have been loaned to shareholders upon such mortgage security so listed for taxation, and upon shares of stock of said association, and neither the association or the shareholders therein shall be liable to other taxation upon said shares of stock or the mortgages owned by said association upon real estate listed for taxation by the owners thereof. Provided, that this section shall not apply to any case upon which final judgment for taxes has already been rendered."

Thus it would appear that federally chartered mutual building and loan associations are subject to New Mexico ad valorem taxation {*397} in the same manner as state chartered mutual building and loan associations.

By: Joel M. Carson

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