

**In The Matter of the Petition of the "R" Bank,**

**A Mutual Savings Bank**

**for a Declaratory Ruling**

**DOC #2078, Effective June 15, 1982**

Pursuant to RSA 541-A:1, I-b and Rev 104.04, New Hampshire Code of Administrative Rules, The "R" Bank, a state-chartered mutual savings bank (hereinafter referred to as "bank") having its principal place of business in ....., New Hampshire has petitioned the New Hampshire Department of Revenue Administration for a declaratory ruling with respect to the New Hampshire Business Profit Tax consequences of a proposed conversion of the "Bank" from a state-chartered mutual savings bank into a state-chartered stock savings bank, (hereinafter referred to as "Stock Bank"). Through its attorneys-in-fact and counsel, the Petitioners represent the following:

1. The purpose of the Plan of Conversion, submitted with the petition for declaratory ruling, is to facilitate the raising of capital for growth and expansion and in that regard it is proposed that the "Bank" be converted into a state-chartered stock savings bank, "Stock Bank".
2. The Internal Revenue Service has indicated by ruling letter dated May 18, 1982, a copy of which is submitted with the petition for declaratory ruling, that this conversion of "Bank" from a mutual savings bank to a stock savings bank will constitute a reorganization within the meaning of section 368 (a) (1) (F) of the Internal Revenue Code, and no gain or loss will be recognized to "Bank" or "Stock Bank" as a result of the conversion. "Bank" and "Stock Bank" will each be a "party to a reorganization" within the meaning of section 368 (b).

In connection with the transaction described in the Petition, and related documents appended thereto, the Petitioner requests a declaratory ruling be issued as to the following matter:

1. Inasmuch as the conversion of Bank into Stock Bank will constitute a reorganization within the meaning of section 368 (a) (1) (F) of the Internal Revenue Code of 1954, as amended, such conversion will not be reflected in "gross business profits" as defined in N.H. RSA 77-A:1 (III), and therefore, will not be subject in any respect to the tax imposed under RSA 77-A:2 and related provisions.

In view of the foregoing representation and specifically based thereon, the Department of Revenue Administration states the following:

1. N.H. RSA 77-A:1 (III) (a) defines "gross business profits", in the case of a corporation (as is applicable in this matter) as the amount shown or which would be shown on a separate federal corporation income tax return as taxable income before net operating loss and special deductions.
2. N.H. RSA 77-A:1 (IV) defines "taxable business profits" as "gross business profits" reduced by the method of apportionment provided in RSA 77-A:3 and deductions allowable under RSA 77-A:4.
3. N.H. RSA 77-A:2 provides for the imposition of a tax on the "taxable business profits" of every business organization.

Wherefore, under the specific circumstances represented and in conformity with the statutes, rules and regulations cited herein, the Department of Revenue Administration hereby rules that:

- (a) The conversion of The "R" Bank from a state-chartered mutual savings bank to a state-chartered stock savings bank qualified, by reason of a letter ruling from the Internal Revenue Service as a reorganization eligible for non-recognition treatment under section 368 (a) (1) (F) of the Internal Revenue Code of 1954, as amended will be recognized in the same manner for purposes of taxation under Chapter 77-A, the Business Profits Tax Law.

(b) The conversion will not result in the recognition of any "gross business profits" as defined under N.H. RSA 77-A: 1 (III)(a) and any resultant taxable business profits" as defined under N.H. RSA 77-A: 1 (IV) on which a tax imposed under RSA 77-A: 2 can be assessed.

Lloyd M. Price, Commissioner