

X-7602

INTERPRETATION OF BANKING ACT OF 1933

(Copies to be sent to all Federal Reserve Banks.)

September 21, 1933.

Mr. \_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_.

Dear Sir:

Receipt is acknowledged of your letter of July 20, 1933, addressed to the Board's General Counsel, inclosing an inquiry from the \_\_\_\_\_ National Bank, \_\_\_\_\_, Kentucky, with reference to whether the absorption by a member bank of a tax on demand deposits imposed by the laws of Kentucky would constitute a payment of interest prohibited by Section 19 of the Federal Reserve Act, as amended by Section 11(b) of the Banking Act of 1933.

Section 4019a-1 of Carroll's Kentucky Statutes (Baldwin's revision, 1930) provides in effect that every person having a deposit in a bank in the State of Kentucky on the first day of July shall pay to the State a tax assessed at the rate of one-tenth of one per cent, annually upon the amount of such deposit, and that the taxes so imposed shall be paid by the bank "for and on behalf, and as the agent" of the depositor. Section 4019a-2 provides that no other tax shall be assessed on such deposits in the bank or against the depositor of said deposits by the State or its subdivisions. Under the terms of Section 4019a-3, the bank is authorized to charge to, and deduct from, the deposit of each

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depositor the amount of the tax so paid "for and on his behalf", and is expressly given a lien on such deposits to secure repayment of the tax. The statute also provides a penalty for willful failure by the bank to make payment for its depositors.

It would seem clear that the Kentucky tax on bank deposits is a tax imposed on the depositor, and that the bank acts only as an agent of the depositor in paying such tax. The requirement of the statute that the tax be paid by the bank, and the provision permitting the bank to deduct the amount of the tax paid from the deposit, are merely aids to collection, and do not necessarily affect the incidence of the tax, which falls on the depositor unless the bank voluntarily absorbs such tax. Accordingly, it is the opinion of the Board that the absorption of any such tax by a member bank would constitute an indirect payment of interest within the prohibition of Section 19 of the Federal Reserve Act, as amended, and would be unlawful. Furthermore, it is the opinion of the Board that the amount or size of the tax does not affect the legal principles involved, or alter the conclusion reached herein.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,  
Assistant Secretary.