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INTERPRETATION OF LAW OR REGULATION

(Copies to be sent to all Federal Reserve banks)

December 19, 1939

Mr. _____, Vice President,
Federal Reserve Bank of _____,
_____, _____.

Dear Mr. _____:

This refers to your letter of December 7, 1939, with enclosures, requesting the Board's opinion with respect to the question whether the payment and absorption by member banks in Michigan of a tax upon deposits imposed by Senate Enrolled Act No. 166, passed by the 1939 Michigan Legislature, constitutes a payment of interest on demand deposits in violation of section 19 of the Federal Reserve Act and of the Board's Regulation Q.

It appears that by virtue of the Michigan statute and the regulations of the State Tax Commission issued thereunder, depositors are subject to a tax upon their deposits, based upon the amounts of deposits as of the close of any month or other accounting period as fixed by the Commission retroactively after the close of the tax year. Among other deductions, the law allows the deduction of deposits in banks up to the amount of \$3,000. It appears further that the statute permits any person having intangible personal property of another on deposit to pay the tax imposed by the Act and also permits, but apparently does not require, such person to charge such payments against the property of the owner; and that the regulations of the Commission expressly provide that banks may pay the tax on bank deposits.

In 1933, the Board had under consideration the Indiana Intangibles Tax Acts which imposed a tax upon depositors in Indiana banks, to be computed according to the amounts on deposit in such banks on the last day of each month in each year. Under this statute, each bank, at its election, was permitted to pay the taxes assessed against its depositors or to deduct the amount thereof from the deposits against which such taxes were assessed. In a letter dated December 9, 1933 (X-7714), the Board took the position that the absorption by member banks of the Indiana tax on deposits as an operating expense of each bank does not, in itself and in the absence of special factors in particular cases which might indicate the contrary, constitute a payment of interest by such banks and is not inconsistent

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with that provision of section 19 of the Federal Reserve Act which forbids any member bank, directly or indirectly, to pay any interest on any deposit which is payable on demand.

It is believed that the provisions of the Michigan statute, while not identical, are substantially similar to those of the Indiana statute involved in the above case, and that the views expressed by the Board in that case are equally applicable in the present instance. Accordingly, it is the opinion of the Board that the payment and absorption by member banks in Michigan of taxes upon deposits imposed by Senate Enrolled Act No. 166 of the Michigan Legislature would not constitute a payment of interest in violation of the law or of the Board's Regulation Q.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.