

1981 S.C. Op. Atty. Gen. 13 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-4, 1981 WL 96531

Office of the Attorney General

State of South Carolina

Opinion No. 81-4

January 12, 1981

***1 SUBJECT: Taxation—Savings and Loan Associations**

A savings and loan association is to be taxed under Chapter 13 of Title 12 and not as a bank under Chapter 11 of the Title.

To: Mr. C. H. Brooks
Director
Income Tax Division

QUESTION:

Are savings and loan associations subject to taxation by § 12-11-20, et seq.?

APPLICABLE LAW:

§ 12-13-10, et seq., and § 12-11-20, et seq.

DISCUSSION:

The question presented may be stated as whether a savings and loan association is now taxed as a bank because of the extended power to accept checking deposits. Chapter 11 of Title 12 imposes a tax on banks. A bank is defined by § 12-11-10 to mean:

‘* * * any person engaged in a banking business * * *.’

Some savings and loan associations now accept checking deposits, which is the cause of the inquiry. It should be recognized that the General Assembly has long recognized a distinction between a bank and a savings and loan association.

The tax upon a savings and loan association is specifically provided by Chapter 13 of Title 12. They are defined by § 12-13-10 to include:

‘* * * building and loan associations, savings and loan associations, Federal Savings and loan associations and cooperative banks * * *. Such banks as are taxable under the provisions of §§ 12-11-10 to 12-11-60 are not included.’

A bank and a building and loan association have different powers. Section 34-3-210 provides the general powers of a banking corporation. Chapter 25 of Title 34 sets forth the powers of building and loan associations.

We find no evidence of an intent to change for tax purposes the character of a savings and loan association because of an extended power to accept checking deposits.

CONCLUSION:

A savings and loan association is to be taxed under Chapter 13 of Title 12 and not a bank under Chapter 11 of the Title.

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