

1975 WL 29243 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 18, 1975

***1 RE: Federal Home Loan Stock Dividends**

Dividends on Federal Home Loan Bank stocks are exempt from state income taxes and taxation on the dividends by state and local taxing authorities constitute a prohibited taxation of a Federal instrumentality without the consent of Congress.

TO: Mr. C. H. Brooks
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QUESTION

Are Federal Home Loan Bank dividends for South Carolina income tax purposes exempt?

STATUTES INVOLVED

Section 65-253, South Carolina Code of Laws, 1962; [Section 1433 of Title 12 of the United States Code](#).

DISCUSSION

The provisions of the State's income taxing statutes generally provide that all income is subject to tax. This section, however, does not apply to certain items which are enumerated in Section 65-253 of the Code. Subsection 4 of this section provides that interest upon obligations of the United States or its possessions or of this State or any political subdivisions thereof shall not be included in the definition of 'gross income'. In addition to this section it is a general rule of law that a state may not tax a Federal instrumentality without the consent of Congress.

There are a number of government-sponsored privately-owned corporations and agencies which historically have been generally regarded in the securities markets as the issuers of obligations with a special status. The obligations issued by these agencies are known as 'Federal Agency Securities'. The Federal Home Loan Banks generally fall within this classification.

It has been said that there are ten major characteristics that are common to obligations issued by different Federal agencies or quasi-federal agencies. These characteristics are:

1. They are issued under the authority of an Act of Congress.
2. They are exempt from registration with the Securities and Exchange Commission.
3. They are legal investments for Federally-supervised institutions.
4. They are issued and payable through the facilities of the Federal Reserve Banks.

5. They are eligible collateral for Federal Reserve Bank advances and discounts.
6. They are 'public securities' eligible to be purchased and held without limitation by National Banks.
7. They are supported, or 'bankstopped,' by an authority to borrow from the Federal Treasury.
8. They are exempt from State and local taxation.
9. Their issuance must be approved by the U. S. Treasury Department.
10. They are backed by the full faith and credit of the United States.

The obligations of the Federal Home Loan Banks have the characteristics set out in 1 through 9 above. Their obligations are not backed by the full faith and credit of the United States.

[Section 1433 of Title 12 of the United States Code](#) exempts certain obligations and income thereon of a Federal Home Loan Bank. In an opinion dated October 29, 1975, of Charles E. Allen, General Counsel for the Federal Home Loan Bank Board, a copy of which is enclosed, it was concluded that dividends on the stock of these banks are exempt from state income taxes in that such banks are Federal instrumentalities.

CONCLUSION

*2 Dividends on Federal Home Loan Bank stocks are exempt from state income taxes and taxation on the dividends by state and local taxing authorities constitutes a prohibited taxation of a Federal instrumentality without the consent of Congress.

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