NATIONAL CREDIT UNION ADMINISTRATION
WASHINGTON, D.C. 20456

December 19, 1990

Douglas A. Schafer, Esq.
P.O. Box 869
Tacoma, WA 98401

Re: IRS Electronic Return Filing Program
(Your October 11, 1990, Letter)

Dear Mr. Schafer:

You have asked for a clarification of our October 2, 1990, letter, in which we stated that federal credit unions (FCUs) could not participate in the Internal Revenue Service Electronic Return Filing Program (the Program) for profit. In our letter, we concluded that FCUs could offer electronic tax filing services as part of their "good will" service authority, "without receiving compensation for such services." You would like us to clarify that FCUs may charge members a fee for such services which reimburses the credit union for the direct and indirect costs associated with the service.

In our previous letter, we stated that Part 721 of the National Credit Union Administration (NCUA) Rules and Regulations (12 C.F.R. Part 721) governs third-party vendor plans that are offered as a good will service. Section 721.2(h)(2) governs FCU reimbursement for all group purchasing plans other than insurance and provides that an FCU may be reimbursed or compensated by a vendor in an amount not exceeding the cost amount. The provision addresses the standard group purchasing plan, in which an FCU makes available a service from a third party vendor, the vendor charges the members directly for the service, and the vendor then reimburses the credit union for administrative functions performed on its behalf. Our understanding of the Program,

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however, is that the vendor (the IRS Transmitter) will charge the FCU for the service, and the FCU will pass along to the members that charge plus an additional amount. Although the FCU is not reimbursed by the vendor, the rationale of Part 721 applies, limiting the additional amount charged by the FCU to the administrative costs of providing the service.

FCUs participating in the Program may charge members a fee which represents the direct and indirect costs of the service (see 12 C.F.R. §721.2(a)(2)). Your understanding regarding the calculation of these costs, using the approaches set forth in Section 5200.6 of NCUA's Accounting Manual for Federal Credit Unions, appears to be correct.

As a final matter, you wish to correct an asserted misstatement which appeared in your original letter and was repeated in our October 2, 1990, response. You stated, and we reiterated, that FCUs serving as Electronic Return Originators under the Program could charge members a uniform flat fee for assistance in applying for a refund anticipation loan but that they "may not charge or share in any interest or other fees which are based on the amount of the loan." You state now that you have confirmed with the IRS that "it is permissible for an Electronic Return Collector (such as a credit union) to make and to charge interest (as well as a set-up fee) on a tax refund anticipation loan, so long as neither the Collector nor any affiliate of it is a Preparer of the tax return showing the refund."

Sincerely,

Hattie M. Ulan

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Associate General Counsel

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