



State of Alabama Department of Revenue

Montgomery, Alabama 36132

GEORGE E. MINGLEDORFF III
Assistant Commissioner

LEWIS A. EASTERLY
Secretary

GEORGE E. MINGLEDORFF III
Commissioner (Acting)

ALABAMA DEPARTMENT OF REVENUE REVENUE RULING 94-007

This document may not be used or cited as precedent. Code of Alabama 1975, §40-2A-5(a).

TO:

FROM: Commissioner of Revenue (Acting)
Alabama Department of Revenue

DATE: August 22, 1994

RE: Savings and Loan Association (conversion to mutual
stock company)

ISSUES AND FACTS

The facts as represented by Requestor are as follows:

X Savings and Loan Association (the "Association"), a federally-chartered mutual savings and loan association, has its home office in X, Alabama. The Association is in the process of converting from a mutual form of ownership to a stock form of ownership (the "Conversion") and the concurrent acquisition of one hundred percent (100%) of the outstanding capital stock of the Association following the Conversion (the "Converted Association") by a parent holding company, a newly formed corporation (the "Holding Company").

The Association will undergo the Conversion whereby it will be converted from a federally-chartered mutual savings and loan association to a federally-chartered stock savings and loan association. As part of the Conversion, the Association will amend its existing mutual savings and loan association charter and bylaws to read in the form of a federal stock charter and bylaws. The Converted Association will then issue to the Holding Company all of the shares of capital stock to be issued by the Converted Association in the Conversion in exchange for payment by the Holding Company of up to fifty percent (50%) of the proceeds of the offering described below.

Also in connection with the Conversion, the Holding Company will offer its shares of common stock (the "Common Stock") for sale to certain depositors of the Association and to the public. The aggregate purchase price at which the shares of Common Stock will be offered in the Conversion will be determined by the Boards of Directors of the Association and the Holding Company on the basis of the estimated pro forma market value of the Converted Association as a subsidiary of the Holding Company, which value will be determined by an independent appraiser. All such shares of Common Stock will be issued and sold at a uniform price per share.

Management of the Association and the Holding Company believes that the Conversion will qualify as a tax-free reorganization for federal income tax purposes within the meaning of Section 368(a)(1)(F) of the I.R.C. of 1986, as amended. It is the opinion of law firm X that the Conversion will qualify as a tax-free reorganization for federal income tax purposes within the meaning of I.R.C. §368(a)(1)(F).

The Department assumes, for purposes of this ruling, that Requestor's representation that the Conversion will qualify as a tax-free reorganization for federal income tax purposes within the meaning of §368(a)(1)(F) is correct.

The issue is as follows: Whether the Conversion will constitute a tax-free transaction under Alabama state laws and regulations, i.e., whether there will be Alabama income tax consequences for the Association, the Holding Company or the account holders of the Association resulting from the Conversion.

LAW AND ANALYSIS

Code of Alabama 1975 §40-18-8(g) provides in pertinent part:

"In the case of a reorganization defined in 26 U.S.C. §368 (relating to definitions applicable to corporate reorganizations) . . . the amount of gain or loss recognized shall be determined in accordance with 26 U.S.C. §§354, 355, 356, 361, 371 and 374."

IRC §368(a)(1)(F) provides that "a mere change in identity, form, or place of organization of a corporation, however effected" qualifies as a tax-free reorganization. A mere change in form occurs when a mutual savings and loan association converts into a stock savings and loan association. See Rev. Rul. 80-105, 1980-1 CB 78.

Based upon the facts as represented by Requestor, the Conversion will be tax-free under the Alabama income tax and financial institutions excise tax laws provided that the

conversion qualifies as a tax-free reorganization for federal income tax purposes within the meaning of IRC §368(a)(1)(F).

HOLDING

The Conversion will be tax-free under the Alabama income tax and financial institutions excise tax laws, because it qualifies as a tax-free reorganization for federal income tax purposes within the meaning of I.R.C. §368(a)(1)(F).

GEORGE E. MINGLEDORFF III

GEM:eb236A