

**Opinion 96-4 (Redacted version)**

May 8, 1996

**“A” Credit Union**

Subject: Payment of State Business and Occupation taxes;  
Interpretation No. 96-4

Dear:

You indicated that the state Department of Revenue (“DOR”) recently sent “A” a notice for the payment of business and occupation (“B&O”) taxes. In a follow-up phone call, DOR personnel indicated to you that the notice was based on WAC 458-20-146 (“Section 146”).

You have raised the question whether a Washington state-chartered credit union such as “A” is required to pay state B&O taxes. My conclusion is that “A” is not required to pay such taxes, as explained below.

Section 146 states in effect that banks, savings and loan associations and “certain other financial institutions” must pay B&O tax. Section 146 does not by its terms expressly apply to credit unions. Although a credit union may be viewed in a general sense as a type of financial institution, I am not aware of a definition of the quoted phrase in the WAC that would indicate definitively that a credit union is another type of financial institution subject to B&O tax.

More importantly, however, RCW 82.04.405 expressly exempts credit unions (both state- and federally-chartered) from the provisions of Chapter 82.04 RCW, the statute which provides for the B&O tax. Even if Section 146 were interpreted to apply to credit unions, normal rules of statutory construction would dictate that the statutory exemption of RCW 82.04.405 would override an inconsistent agency rule (Section 146). Accordingly, state- and federally-chartered credit unions are not subject to the payment of B&O taxes.

I have confirmed my conclusion with Mr. Kerry Breen, Counsel, Legislative and Policy Division, DOR. If you have any further questions about this matter, please don't hesitate to give me a call.

Sincerely,

J. Parker Cann  
Assistant Director