



FOR IMMEDIATE RELEASE
May 18, 2009

CONTACT: Patrick Keefe, CUNA Communications/(202) 508-6765; pkeefe@cuna.com

CREDIT UNION WINS REFUND; PREVAILS OVER IRS IN LAWSUIT

Jury nixes UBIT payments, reinforces tax-exempt status of CUs

GREEN BAY, Wis. -- A verdict by a federal court jury has rejected the government's efforts to levy taxes on certain core products a credit union offers its members, thus helping to reinforce the tax-exempt status of credit unions.

Eight jurors in U.S. District Court in Green Bay, Wis., rendered the verdict Thursday in a lawsuit brought by Community First Credit Union of Appleton, Wis., against the U.S. government. The credit union was seeking a refund of taxes it paid to IRS for "unrelated business income tax" (UBIT) on insurance and debt cancellation products the credit union offered to its members.

The trial, held in the U.S. District Court for the Eastern District of Wisconsin in Green Bay, ran from May 11 to May 14.

As a result of the verdict, the court awarded the credit union the full amount of the tax refund it was seeking -- \$54,604 -- plus trial costs. Significantly, the jury found that all three products offered by the credit union (and on which the taxes were based) were substantially related to the exempt purpose of the credit union. The exempt purpose was based on Wisconsin law of promoting thrift, providing credit at fair and reasonable cost and improving the social and economic conditions of members.

The three products are credit life insurance, credit disability insurance and guaranteed asset protection (GAP).

Community First paid about \$54,000 in taxes for 2006 on income from the sale of the products. After the IRS determined these product lines should be subject to UBIT, Community First disagreed with the interpretation and filed a complaint in federal court in January 2008 with the support of its state and national trade associations, the Wisconsin Credit Union League and the Credit Union National Association, as well as the provider of the insurance products, CUNA Mutual Insurance Society, which has offices in Madison, Wis., and is mutually owned by its policy holders, including credit unions. The National Association of State Credit Union Supervisors (NASCUS) also supported the credit union's complaint, as did the American Association of Credit Union Leagues (AACUL).

"Today's decision is important not just for Community First, but for the credit union community at large," said Cathie Tierney, CEO of Appleton-based Community First. "It means credit unions can more affordably continue providing important products our members desire. These products directly benefit members by providing safety and security for their financial services, and that's as essential in today's world as it was when credit unions first emerged in a time of economic turbulence a century ago."

(more)



Others likewise praised the verdict and its meaning for the credit union movement at large.

“While this is only a first step, the ruling is nonetheless a milestone of 12 years’ effort to obtain clarity from the federal revenue collectors on credit union tax liability,” said Eric Richard, executive vice president and general counsel of the Credit Union National Association, Washington, DC. “Beyond that, however, the jury members helped reinforce the tax-exempt status of credit unions. We hope this will lead the IRS to reconsider its entire position on UBIT for credit unions.”

“These products provide credit unions’ member-borrowers with greater peace of mind and so can be instrumental in restarting our economy,” said Brett Thompson, president and CEO of the Wisconsin Credit Union League in Pewaukee, Wis., and 1st vice chair of the American Association of Credit Union Leagues (AACUL). “We are grateful to CEO Cathy Tierney and the board and members of Community First for challenging the IRS and championing this case for the credit union movement.”

“We believed from the outset that it is the legislatures that determine the purpose of credit unions, and not the IRS,” said Larry Blanchard, corporate and legislative affairs consultant for CUNA Mutual. “We created a strategy, stuck to it, and it paid off. There’s more work to be done, but this is a major turning point in a battle that’s been ongoing for the past dozen years.”

“State regulators and legislatures have long recognized that credit unions must evolve their products and services to meets their members’ needs,” said Mary Martha Fortney, president and CEO of NASCUS. “The court’s determination that the products at issue are related to the business of the state-chartered credit unions is monumental and certainly underscores the strength of our dual chartering system.”

A similar lawsuit filed by a credit union against the IRS is pending in federal court in Colorado. No date has been set for a trial.

###