## NCUA LETTER TO FEDERAL CREDIT UNIONS

## NATIONAL CREDIT UNION ADMINISTRATION 1775 Duke Street, Alexandria, VA 22314

DATE: July 2005 LETTER NO.: 05-FCU-02

TO: Federal Credit Unions

SUBJ: Tax Consequences of Payment of Travel Expenses

for FCU Volunteer Officials and Their Guests

## Dear Board of Directors:

The National Credit Union Administration (NCUA) is issuing guidance on the possible tax implications of reimbursements of travel expenses to federal credit union volunteer officials and their guests. NCUA's rule on reimbursement permits federal credit unions to reimburse volunteer officials and one guest per official for reasonable and proper costs incurred in carrying out official responsibilities. 12 C.F.R. §701.33(b)(2)(i). The reimbursement rule also requires that payments must be determined to be necessary or appropriate in carrying out official business and are in accordance with written policies and procedures, including documentation requirements.

While the Federal Credit Union Act authorizes compensation for only one board officer for service as an officer of the board of directors, the other directors and volunteer officials of a federal credit union can be reimbursed for reasonable costs incurred in carrying out their positions. 12 U.S.C. §1761a. NCUA does not view payment of reasonable travel costs for a federal credit union official and one guest as compensation to the official or the guest. The reimbursement rule specifically excludes these payments from the definition of "compensation." 12 C.F.R. §701.33(b)(2). To comply with the reimbursement rule, a federal credit union board of directors must adopt a policy to pay the "reasonable and proper costs" incurred by an official in carrying out the responsibilities of the official's position. 12 C.F.R. §701.33(b)(2)(i). These costs may include travel expenses of an official and one guest to attend credit union related conferences and meetings.

While NCUA's rule does not address tax matters, federal credit unions must comply with any applicable Internal Revenue Service (IRS) reporting requirements. Whether the FCU must issue a Form 1099 or other tax form for the travel payments, and the resulting tax consequences a federal credit union

official or the guest of an official may incur, are matters the IRS regulates. 26 U.S.C. §274; 26 C.F.R. §1.162-2; IRS Publication 463.

Travel payments, while permissible under NCUA's reimbursement rule, nevertheless may be taxable income to the recipient. The IRS definition of taxable income differs from NCUA's definition of compensation. 26 U.S.C. §63. Before the 1992 amendment to §701.33, which permitted payment of travel expenses for "one immediate family member," NCUA considered travel payments for an official's guest to be compensation under the Federal Credit Union Act. 57 F.R. 54499 (1992). This policy was based in part on an IRS interpretation that the payment of travel expenses for a guest of an employee is only deductible as a business expense under certain circumstances. 57 F.R. 18837 (1992). In determining to amend the reimbursement rule, NCUA found its policy unduly restrictive, stating that as long as a federal credit union adopts a written policy requiring travel reimbursements to be reasonable and proper, NCUA would not consider the reimbursement of quest travel expenses to be prohibited compensation under its rule. Id. The most recent amendment to the rule's language substituted "a guest" for "one immediate family member" in §701.33(b)(2)(i). 66 F.R 65628 (2001). NCUA policy to exclude guest travel reimbursements from the definition of compensation under §701.33, however, does not affect IRS requirements. Therefore, a federal credit union adopting a reimbursement policy under §701.33, as well as an official or an official's guest who benefits from the policy, should consult tax professionals for advice to ensure their practices comply with IRS requirements.

Sincerely,

//s// JoAnn M. Johnson Chairman