
Joint Release

**Federal Deposit Insurance Corporation
Federal Reserve Board of Governors
Office of the Comptroller of the Currency**

For Immediate Release

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Federal Banking Regulators Finalize Joint Supplemental Guidance on Income Tax Allocation Agreements

Federal banking regulators on Friday issued final supplemental guidance on income tax allocation agreements involving holding companies and insured depository institutions. An aim of the guidance is to reduce confusion regarding ownership of tax refunds.

The guidance supplements an interagency policy statement on income tax allocation issued by the regulators in 1998. That statement said that a holding company that receives a tax refund from a taxing authority obtains these funds as agent for its subsidiary insured depository institutions and other affiliates. The guidance supplements the policy statement by instructing insured depository institutions and their holding companies to review their tax allocation agreements to ensure the agreements expressly acknowledge that the holding company receives any tax refunds as an agent. In addition, all banking organizations are asked to insert specific language in their tax allocation agreements to further clarify tax refund ownership.

The guidance also clarifies how sections 23A and 23B of the Federal Reserve Act, which establish certain restrictions on and requirements for transactions between depository institutions and their affiliates, apply to tax allocation agreements.

The federal banking regulators are issuing the guidance, which is identical to the proposal issued late last year, in response to disputes between holding companies in bankruptcy and failed depository institutions regarding ownership of tax refunds. Courts have come to differing conclusions regarding the ownership of tax refunds between holding companies and depository institutions based on their interpretation of language in tax allocation agreements.

Institutions and holding companies should implement the guidance as soon as reasonably possible, which the regulators expect would not be later than October 31, 2014.

Attachment: Interagency Guidance on Income Tax Allocation Agreements - PDF (PDF Help)

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