

STATE TAX MEN AND BANKERS IN ACCORD

Months of Negotiation Lead to Agreement on Changes Broadening Method of State or Local Taxation of National Banks.

NEW YORK.—Months of conference and negotiation between an American Bankers Association special committee and the Committee of the Association of States on Bank Taxation have resulted in an agreement on a form of amendment to the Federal statute dealing with state or local taxation of national banks that "maintains the integrity of the protective principles of the section and is satisfactory to the commissioners' committee," says the American Bankers Association Journal.

Thomas B. Paton, the organization's General Counsel, in making the announcement says that previously proposed amendments to the statute, which is known as Section 5219, have been opposed when it was felt their terms would enable any state to place banks in a tax class by themselves.

"The law as it stands today," Mr. Paton says, "permits state or local taxation of national banks or their shareholders in one or the other of the four following forms: the shareholders upon their shares,—a property tax; the shareholders upon their dividends,—a personal income tax; the bank upon its net income; the bank according to or measured by its net income. Only one form of tax can be imposed, except that the dividend tax may be combined with the third or fourth form if other corporations and shareholders are likewise taxed.

"The conditions permitted are: the tax on shares must be at no greater rate than on other competing moneyed capital; the income tax on shareholders must be at no greater rate than on net income from other moneyed capital; the tax on bank net income must be at no higher rate than on other financial corporations nor the highest rates on mercantile and manufacturing corporations doing business within the state; the tax measured by net bank income is subject to the same limitations as the tax on net income of the bank but may include entire net income from all sources."

States Seek Broader Law

National banks and their shareholders are taxed in different states under a diversity of systems, he says. The U. S. Supreme Court has held that the low millage rate on intangible personal property is in violation of the present law where it results in national bank shares being taxed at a rate greater than that assessed upon competing moneyed capital. A number of states, unwilling to use the income methods permitted, had the alternative of either repealing the intangible tax laws or limiting taxation of national bank shares at the intangible rate. Therefore they sought a broadening of the permissive provisions.

Also, Mr. Paton points out, a Supreme Court decision held a state's excise tax on corporations invalid where it included income from Federal and local government bonds in the excise measure. This created doubt as to some state bank excise taxes.

"Conferences have been held to reach some agreement which would protect the banks, satisfy the tax commissioners and avoid a contest in Congress," Mr. Paton says. "From the standpoint of the tax authorities, the main objectives have been an amendment which would permit certain states to retain their low rate tax upon intangibles and at the same time derive an adequate, but not excessive, revenue from national bank shares, and an amendment which would permit certain states to tax corporations on their net income, excluding income from tax-exempts, and at the same time derive the same revenue from the banks as heretofore. From the standpoint of the banks, it has been deemed imperative to maintain the protective principles of Section 5219.

The Changes Agreed On

"In the proposed amendment the existing provision permitting taxation of bank shares no higher than the rate upon competing moneyed capital has been modified with respect to certain intangible tax states only by a provision under which, instead of the moneyed capital limitation, the rate shall not be greater than the rate upon the shares of other financial corporations, nor upon the net assets of individuals, partnerships or associations employed in the banking, loan or investment business, nor higher than the rate assessed upon mercantile, manufacturing and business corporations with head office in the state.

"Also an added fifth alternative permissive method, designated as a specific tax, permits a state, in place of an ad valorem tax on bank shares, to add together total dividends paid the preceding year and the increase in capital, surplus and undivided profits, less additions to capital or surplus paid in by stockholders, and to divide this total by the number of shares. The state may tax the shares based upon this amount, but not to exceed the rate on other corporations in proportion to their net profits.

"This method is designed for states which have heretofore taxed national banks upon their entire net income from all sources at a proportionate rate to that assessed upon business corporations. The amount which is the basis of the tax is the equivalent of the entire net income from all sources, but being assessed against the shareholder upon his property in the shares and not a tax upon the bank, it is not open to the objection as an indirect tax on exempt income."

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