



## InfoSight Highlight

### Georgia Sales and Use Tax Form Update

The Georgia Department of Revenue (DOR) has updated the [ST-5 form](#) again, so please make sure that you are using the correct form. It should have a revision date of 9/2014.

As a reminder, in January 2014, the DOR updated the [ST-5 form](#) to reflect that credit unions (both state and federally chartered) are sales tax exempt in Georgia. As most of you are aware, for years, credit unions had to explain to vendors that credit unions were exempt from paying sales and use tax. The older ST-5 form did not include instructions to help vendors understand credit unions' exemption. The vendors were worried about getting fined for not collecting the proper sales and use tax.

Credit unions purchasing new equipment or staying at a Georgia hotel for business will need to submit the form with **Box #7** marked to show exemption from sales and use taxes under Georgia state law.

Please share the revised form with your credit union's Accounting Department and any other departments that should be aware of the proper form to be used.

**Note:** If a state chartered credit union employee is staying at a hotel out of the state of Georgia, the employee will need to contact the director of the conference they are attending or the League for the state they are going to, to get the proper forms for state sales tax exemption. Form ST-5 is for use in the state of Georgia only, and will not work when traveling out of the state on business.

For more information on this topic, please see the [Credit Union Tax Exemption](#) section on InfoSight.

Speaking of hotel stays, just a reminder that effective **July 1, 2015**, the state of Georgia implemented a \$5 per night fee on each calendar night a hotel room is rented. Please note - this is not a new tax but a fee.

Some background: The 2015 Georgia General Assembly passed the state hotel-motel fee in House Bill 170 and House Bill 106 to help add additional revenue necessary for funding transportation purposes in this state. In that



InfoSight  
Compliance eNEWSLETTER  
November 16, 2015  
Vol. 9, Issue 46

Created in partnership with the



Credit Union National Association

## Compliance Video

### Compliance Connection Video

In this video, League InfoSight CEO Glory LeDu talks about the highlights from the 4th Quarter of 2018 and the 1st Quarter of 2019.

When S.2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, passed in 2018 there was a lot to understand! Glory LeDu, League InfoSight CEO, provides [Part 1 in this short video](#) to break it down for you.

Just a reminder that Compliance videos since 2016 can be found on YouTube at [the Compliance Connection](#)

bill a new state hotel-motel fee was established. It is a \$5 per night fee on each calendar night a hotel room is rented until the rental becomes an “extended stay rental.” An “extended stay rental” is the rental of a hotel room for 31 or more consecutive days to the same customer.

**Question: Is the fee subject to sales tax?**

**Answer:** The fee is not subject to sales tax when the fee is separately stated on the customer’s invoice.

**Question: Does the fee apply to hotel room rentals that are exempt from sales tax?**

**Answer:** Yes. The fee applies to hotel room rentals regardless of whether the rental is exempt from sales tax.

For more FAQs on this rule, click [here](#).

**Compliance News**

Regulation D Reserve Requirements for 2016

The Federal Reserve Board has [announced](#) the annual indexing of two amounts used in determining reserve requirements of depository institutions. These amounts are the reserve requirement exemption amount and the low reserve tranche. **For net transaction accounts in 2016, the first \$15.2 million, up from \$14.5 million in 2015, will be exempt from reserve requirements. A 3 percent reserve ratio will be assessed on net transaction accounts over \$15.2 million up to and including \$110.2 million, up from \$103.6 million in 2015. A 10 percent reserve ratio will be assessed on net transaction accounts in excess of \$110.2 million.** The Board also announced changes in two other amounts, the nonexempt deposit cutoff level and the reduced reporting limit, that are used to determine the frequency with which depository institutions must submit deposit reports. A [notice of the actions](#) has been sent to the *Federal Register* for publication.

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FFIEC IT Management Booklet Revised

The FFIEC has [announced](#) its revision of the “[Management](#)” booklet of the FFIEC *Information Technology Examination Handbook* (IT Handbook). The revised booklet provides guidance to examiners and outlines the principles of governance and risk management as they relate

[channel](#), where they are generally updated quarterly.

**Compliance Calendar**

November 26  
Thanksgiving Day - Federal Holiday

December 25  
Christmas Day - Federal Holiday

December 31  
Foreign Account Tax Compliance Act Effective Date

[Click here for upcoming compliance dates.](#)

**Compliance Training**

November 18, 2015  
[Advertising Share Account Products via Social Media](#) - Webinar  
**11:00 – 12:30 p.m. EST**

November 18, 2015  
[Auto Lending](#) - NCUA Webinar  
**2:00 - 3:30 p.m. EST**

November 25, 2015  
[Lending Advertising Rules and Requirement](#) - Webinar  
**11:00 – 12:30 p.m. EST**

December 2, 2015  
[Social Media Compliance Risks](#) - Webinar

to IT. The updated examination procedures in the booklet assist examiners in evaluating:

- IT governance as part of overall governance in financial institutions.
- IT risk management as part of enterprise-wide risk management in financial institutions.

Other relevant changes include:

- Incorporation of cybersecurity concepts as part of information security.
  - Incorporation of management-related concepts from other booklets of the IT Handbook.
  - Augmentation and further delineation of the stages of the IT risk management process, including risk identification, measurement, mitigation, monitoring, and reporting.
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#### Holiday Season Reminders On The Bank Bribery Act!

During the holiday season, credit union employees are often given gifts from vendors and members. Can you accept these? It depends. If your credit union has a policy to address such, follow it. If your credit union does not have a policy, your employees should not accept the gift, or better yet, adopt a policy for your credit union.

Why? The problem lies with the “gift” being considered by the authorities as a potential bribe. Even a box of chocolates can cause a problem if your credit union does not have a policy.

Does your credit union have a policy in place for gifts or incentives that employees receive from time to time? If not, consider these serious consequences:

- Both parties are subject to prosecution, both the person(s) giving the bribe/gift and the person(s) receiving the bribe/gift.
- Bribes/gifts of \$100 or less subject violators to fines not to exceed \$1,000 and/or prison terms of up to 1 year.

**11:00 – 12:30 p.m. EST**

BSA Training Opportunities  
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- Bribes/gifts of more than \$100 subject violators to fines of up to \$1,000,000 or three times the bribe, whichever is greater, and/or prison terms of up to thirty years.

The Bank Bribery Act prohibits any officer, director, committee member, employee, agent, or attorney of a credit union from giving and receiving bribes (anything of value) in connection with the credit union's business affairs.

Your credit union should have a code of conduct and written policy that clearly states what's prohibited, what's permitted, and to whom the policy applies. Some model policies, based on the prosecution guidelines found in the Act, suggest that gifts under \$100 could be accepted on an occasional basis. If your credit union permits occasional gifts of nominal value, make sure to require that any such gifts are recorded and reported to management immediately.

The credit union's code of conduct may include the following exceptions to the general prohibition regarding the acceptance of things of value in connection with credit union business:

- Gifts or favors based on family or personal relationships.
- Meals, refreshments, or entertainment of reasonable value and where the purpose is credit union business.
- A regular member loan from the credit union.
- Advertising or promotional material of nominal value, such as pens, calendars, etc.
- Discounts or rebates on merchandise or services that do not exceed those available to other members.
- Gifts of reasonable value that are related to commonly recognized events/occasions, such as a promotion, new job, wedding, retirement, or holiday (that box of chocolates).
- Civic, charitable, educational, or religious awards for recognition of service and accomplishment.
- Bona fide salary, wages, fees, or other compensation, or expenses paid or reimbursed.

If the "gift" is given to the credit union and in turn, the credit union distributes it to its employees, the credit union should be fairly well protected from prosecution.

For example, if a vendor wishes to give an incentive for the employee that sells the most insurance, the vendor should give it to the credit union and the credit union then award it to the winning employee. If the

gift provides educational value to the credit union (i.e. training seminar), the credit union should be fairly well protected.

**Note:** There is a Model Bank Bribery Act Policy in [PolicyPro](#).

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#### Flood Insurance Escrow Requirements

**Question:** The flood insurance escrow requirements that go into effect on January 1, 2016 apply primarily to credit unions with at least \$1 billion in assets. Credit unions under \$1 billion don't have to comply with the escrow requirements unless: the credit union is required by applicable federal or state law to escrow taxes or insurance for the term of the loan; or the credit union has a policy of consistently and uniformly requiring escrow of taxes and insurance. What happens if a credit union qualifies for the small institution exception as of December 31, 2015, but no longer qualifies for the exception in a later year?

**Answer:** According to [CUNA's Compliance Blog](#), the [inter-agency final rule](#) (and frequently asked questions in [NCUA Regulatory Alert 15-RA-05](#)), transition rules apply when a credit union no longer qualifies for the small lender exception. The requirements are outlined below:

- **Escrow Requirement:** A credit union that no longer qualifies for the small lender exception must begin to escrow flood insurance premiums and fees for designated loans that have a triggering event on or after July 1 of the first calendar year in which the exception no longer applies.
- **Escrow Option:** A credit union that no longer qualifies for the small lender exception must offer and make available to borrowers the option to escrow flood insurance premiums and fees for any designated loans that are outstanding as of July 1 of the first calendar year in which the exception no longer applies. Credit unions must provide a notice to borrowers about this escrow option by September 30 of the first calendar year in which the exception no longer applies, and implement the escrow as soon as reasonably practicable after receiving a borrower's request to escrow.

**For example:**

Credit unions that qualify for the small lender exception in 2016 but

later report assets of \$1 billion or more as of December 31, 2016 and December 31, 2017 will be required to begin escrowing for designated loans made, increased, extended, or renewed on or after July 1, 2018. These credit unions will be required to provide notice of the option to escrow for designated loans that are outstanding as of July 1, 2018 by September 30, 2018.

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Using the Term CD

**Question: We are putting together a promotional piece and would like to shorten “certificate accounts” by using “CDs” instead. I have been told credit unions can’t use that term – is that right?**

**Answer:** For federal credit unions, NCUA prohibits credit unions from describing share accounts as deposit accounts. As a result, the term “certificate of deposit” or “CD” may not be used to describe share certificates and other dividend-bearing term share accounts.

Generally, NCUA does allow the use of synonyms to describe accounts as long as the synonym is accurate and not misleading. For example, the term “checking account” may be used to describe share drafts; “money market account” may be used to describe money market share accounts; and “savings account” may be used to describe share accounts.

However, Georgia state chartered credit unions are permitted to use the terms “certificate of deposit” and “CD.”

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Holiday Hours...Is There A Limit?

**Question: Staff members often debate whether the credit union can close for more than three consecutive days during the holiday season. Is there any federal regulation limiting the number of consecutive days a credit union can remain closed?**

**Answer:** No. No federal law or regulation prevents a federal credit union from being closed for more than three consecutive days.

However, some states have laws dealing with "emergency closings," closing days, or holiday closings, and may limit state-chartered institutions from closing for more than three consecutive days.

There are several things to keep in mind if you're planning a longer than usual closure during the holidays. From a safety and soundness perspective, federal regulators prefer that federal credit unions and national banks stay open for business long enough to provide sufficient service to members and customers, and to remain competitive with other local financial institutions.

Additionally, when these financial institutions are closed on days other than weekends or national holidays, they must consider the impact of other laws, such as the Uniform Commercial Code, state and federal labor laws, and access to the Federal Reserve Banks. When closed for a national holiday, the entire staff can be off.

However, when closed on a day that isn't a national holiday, at least some employees in back-office departments should be working to clear checks before the midnight deadline, deal with wire transfers, release funds availability holds on deposits, and perform other required functions.

For state-chartered credit unions, the Department of Banking & Finance would prefer to be notified when there is a change that represents a departure from a state-chartered credit union's normal schedule. GA Code Section 7-1-110 states that a credit union "shall post a notice of the change and the effective date thereof in a conspicuous place at each location affected by the change at least 30 days preceding the date of the change." (For more on emergency closings, please see our "[Inclement Weather](#)" article.)

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Your CU Should Know...

**Automated Cybersecurity Tool Available:** The Financial Services Sector Coordinating Council, an industry group founded in 2002 comprising financial trade associations, financial utilities, and the most critical financial firms, has developed and made available an Automated Cybersecurity Assessment Tool that that can be used in conjunction with the FFIEC's assessment tool in a user-friendly Excel spreadsheet that provides risk criteria and cybersecurity maturity levels, then

presents those results in graphs and charts to better illustrate where users need to focus efforts to improve their cybersecurity preparedness efforts.

- [FSSCC Cybersecurity Assessment Tool](#) (Excel spreadsheet format)
- [FFIEC Cybersecurity Assessment Tool page](#)

**NCUA Consumer Assistance Portal Now Open:** The NCUA has [announced](#) that credit unions can now use a portal, located on the NCUA's MyCreditUnion.gov site, to receive correspondence from the Consumer Assistance Center about complaints concerning them, to send responses and complaint information, and to check the status of complaints concerning their institutions that were filed with the Consumer Assistance Center since August 24, 2015. Information contained within the portal is not accessible by the public. A set of [FAQs](#) regarding the portal was also posted on the NCUA website.

**CFPB Releases Retirement Planning Tool:** In prepared [remarks](#) at the Brookings Institution, Director Cordray announced the release of an interactive online tool designed to help people as they decide when to claim their Social Security benefits. The tool, "[Planning for Retirement](#)," was built in collaboration with the Social Security Administration, and gives consumers the information and confidence they need to make a well-informed choice when it comes to deciding at what age they should elect to begin taking their payments. A Bureau [press release](#) and an [article](#) on the CFPB Blog also contain information on how to use the tool.

**FTC Debt Collection Panel Topics Released:** The Federal Trade Commission has [announced](#) the topics of the two panels at its Debt Collection Dialogue in **Atlanta on November 18, 2015**. The first panel, "State Regulation and Enforcement of Debt Collection," will have a representative from a national collection industry association and representatives from three state law enforcement agencies. The second panel, "Federal Regulation and Enforcement of Debt Collection," will include representatives from three national collection industry organizations and three federal law enforcement agencies. The **free** event is open to the public and will begin at **1:00 p.m. at the Latin American Association, 2750 Buford Highway, Atlanta, GA.**



## Comment Calls

The CUNA Advocacy Update keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law. You can view the current report and past reports from the archive.

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