

FLORIDA TAXWATCH REPORT

**AN ANALYSIS OF THE TAX
TREATMENT OF
CREDIT UNIONS:
VALUE OF FLORIDA
CREDIT UNIONS'
EXEMPTION IS NOW
\$259 MILLION**

SEPTEMBER 2023





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DEAR FELLOW TAXPAYER,

Tax policy can have a large effect on the competitiveness of business. One of the tenets of sound tax policy is that similarly situated taxpayers be taxed similarly. For example, the tax-exempt status of credit unions has been an ongoing point of contention since they began expanding into areas of lending more typically practiced by banks.

The credit union industry has undergone a transformation. When credit unions were initially granted tax-exempt status, they were meant to serve low- to middle-income individuals of a specific community with limited financial services. Since then, credit unions have broadened their field of membership requirements, which has allowed them to acquire a wider variety of members. They have also evolved to offer a wide range of financial services, and their balance sheets reflect this evolution. As a result, their tax exemptions have become more valuable.

Florida Taxwatch first examined the tax exemptions Florida credit unions received in 1997 and found that they amounted to \$89.1 million. This was done by estimating the tax burden for each credit union in the state if they were subject to the same tax as banks and savings associations. In the 2003 report, "Florida Credit Unions Receive Tax Exemptions Worth \$102 Million", Florida TaxWatch found the industry, and the value of its tax exemption, were still increasing.

The following report analyzes recent changes to the industry, including a trend of consolidation through mergers and acquisitions, and develops a new estimate of the value of the exemption. Florida TaxWatch hopes this report aids the discussion about credit union taxation and highlights important considerations in the debate over their exemption status.

Respectfully,

A handwritten signature in blue ink that reads "Dominic M. Calabro".

Dominic M. Calabro

President & Chief Executive Officer

Contents

Executive Summary..... i

Introduction..... 1

Evolution of Credit Unions 1

Credit Unions Acquiring Banks..... 2

Incentives for Acquisition..... 3

Tax Treatment..... 3

History of Tax Treatment of Credit Unions..... 4

How Much are Credit Union Tax Exemptions Worth?..... 4

Corporate Income Tax..... 5

Sales Tax..... 5

Intangibles Tax..... 6

Documentary Stamp Tax..... 6

Total Taxes..... 6

Credit Union Exemption vs. Taxes Paid by a Similar Bank..... 7

For Comparison: Taxes Paid by Florida Families..... 7

Relatively Few Credit Unions Account for the Majority of Tax Exemption Value..... 7

Conclusion..... 8

Executive Summary

Credit unions enjoy a long-standing exemption from most taxes. Federally chartered credit unions are exempt from federal corporate income taxes and most state and local taxes. States have more leeway in taxing state-chartered credit unions, but Florida law affords them the same immunity from taxation as the federal ones. As a result of federal and state tax law, all credit unions in Florida are only liable for real and tangible personal property taxes, payroll taxes, and unemployment compensation taxes. The tax exemption for credit unions was originally justified because these non-profit financial institutions were created to restrict membership to people with a common bond, serve people with low or modest incomes, and offer a limited array of services that members had trouble accessing from banks.

While the debate over credit union taxation has existed almost since their inception, it has heightened as they have grown and evolved. The creation of a federal insurance organization for credit unions in 1971 offered their members security. This allowed credit unions to attract more members and minimized the importance of a close common bond between members. In the late 1970s, Congress granted credit unions permission to offer mortgage loans and transaction accounts. Finally, in 1998, President Clinton signed the Credit Union Membership Access Act to allow credit unions to have multiple common bond definitions. This resulted in even further membership expansion.

Today, credit unions are largely indistinguishable from banks, offering a wide array of services to unrestricted membership bases. This has led to significant growth of the credit union industry. Florida credit unions are among the faster-growing institutions, with asset, deposit, and loan growth exceeding the national medians of financial institutions. Florida's credit unions have also amassed 7.2 million members, assets of \$110.8 billion, and \$78.5 billion in loans. The tax exemption has helped fuel this growth, as income not spent on taxes can be devoted to offering more services and lower rates. Florida credit unions also exceeded the national average in the percent of credit unions offering services such as credit cards, commercial loans, unsecured loans, and mortgages and home equity loans.

Consolidation has fueled growth of credit unions as well, and there has been a recent surge in credit unions conducting mergers and acquisitions to expand their lending expertise, diversify their business practices, and obtain members in new markets. Florida has been a hotspot for credit unions looking to grow through consolidation because of its attractive financial climate. The state's market is abundant with commercial business opportunities and is growing quickly. This has tax implications as well. When

credit unions acquire banks, those tax paying institutions come off the tax rolls.

In 2003, Florida TaxWatch estimated that Florida credit union tax exemptions were worth \$102 million. Twenty years later, this report revisits credit unions and finds that the value of their tax exemptions has risen to \$259.0 million, including \$111.2 million in state and local taxes.

It is a central tenet of a fair and competitive tax structure that similarly situated entities are taxed similarly, but this is not the case among depository institutions. An average credit union with assets of \$150 million would not pay any income, sales, or intangibles taxes; however, if that same institution were a bank, it would pay \$259,200 worth of these taxes. Savings and loans, mutual savings banks, and cooperatives lost their tax-exempt status in 1951 when Congress decided these institutions had changed and considered them to be more like other profit-seeking financial institutions. As the credit union industry continues to grow and evolve, its tax exemption becomes harder to justify.

Introduction

Since the nation’s first credit union opened in 1909, credit unions have differed from banks in several ways. A credit union is a nonprofit cooperative association of people with a common bond which accepts shares from its members and makes loans to them. Every member of a credit union is a partial owner. Another unique feature of credit unions is they are exempt from most taxes. The common bond requirement, which limited their ability to compete with institutions that had an unrestricted customer base, was one of the justifications for this exemption. In addition, credit unions were created to serve lower-income individuals that banks might not serve, and to offer them a limited array of services that banks did not (e.g., very short-term personal loans at affordable rates). The reduced tax burden, along with their nonprofit status, would allow credit unions to offer higher returns on savings and lower interest rates on loans.

Credit unions, like other financial institutions, have changed significantly over the years. Before 1970, credit unions were generally very small institutions offering limited services to a narrow, well-defined membership. Since that time, the credit union industry has grown rapidly. Many individual credit unions have become quite large, full-service financial institutions serving a wide-ranging, higher income, field of membership. The tax-exempt status of credit unions has been debated since their inception. As the tax exemption has helped fuel their phenomenal growth, the evolution has heightened the debate between credit unions, other depository institutions, and governments.

In this report, Florida TaxWatch revisits the growth and tax treatment of credit unions discussed in the 2003 report “Florida Credit Unions Receive Tax Exemptions Worth \$102 Million.” In the time since that report, credit unions have continued to expand in scope, size, and membership. Florida TaxWatch undertakes this independent research project to help the U.S. Congress, the Florida Legislature, federal and state regulators, those in the financial industry, and the taxpaying public, better understand the issues involved in the debate over taxation of credit unions. This report also includes new estimates for the value of various federal and state tax exemptions afforded to credit unions and addresses growing trends in the credit union industry.

Evolution of Credit Unions

Although states began chartering credit unions in 1909, the Federal Credit Union Act of 1934 created a national system to charter and manage federal credit unions. The creation of a federal insurance program for credit unions in 1971 was another catalyst for change in the industry. The security of being backed by the National Credit Union Association (NCUA) made credit unions more attractive to consumers. Moreover, by removing the risk to members, the common bond became less important. This helped lead to a rapidly expanding credit union membership base.

In 1998, following a Supreme Court ruling that a single credit union could not offer multiple common bonds, the Credit Union Membership Access Act was signed by President Clinton to allow it, leading to membership base expansion. Since the 1960s, the common bond definition has steadily broadened from its original standard. First, members no longer had to be “exclusively acquainted” but simply had to “know each other.” Next, credit unions were permitted to offer lifetime memberships, which allowed them to retain members who cease to meet the common bond definition throughout their life.¹ Today, there are credit unions that serve all U.S. citizens with a small minimum deposit. The NCUA has been advocating for these advancements, citing a need for diversification in membership to reduce credit unions’ risk.

Other changes occurred in 1978 and 1980 when Congress authorized credit unions to offer mortgage loans and transaction accounts, respectively. Before this, members tended to use both credit unions and banks. Following this authorization, credit unions began acting as full-service financial institutions. Now that these lending practices are permitted, credit unions are taking full advantage of them, especially real estate and commercial lending. For example, the percentage of Florida credit unions offering services such as credit cards, commercial loans, first and second mortgage loans, and home equity lines of credit currently exceed the national average.²

Over time, credit unions have expanded their scope to offer credit cards, ATMs, money market accounts, mutual funds, home equity lines of credit, discount brokerage services, and insurance. Today, their catalog of services has grown even further to offer wealth management, real estate brokering, and to conduct business lending through the U.S. Small Business Administration (SBA). Although there are limits on holding business loans for credit unions (member business loan balances must not exceed 1.75 times the credit union’s

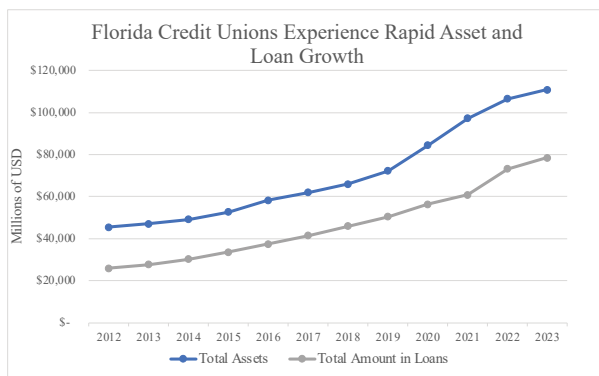
1 Government Accountability Office, “Credit Unions: Reforms for Ensuring Future Soundness,” retrieved from <https://www.gao.gov/products/ggd-91-85> , accessed on February 8, 2023.

2 Credit Union National Association, “Credit Union Profile Reports”, retrieved from <https://www.cuna.org/advocacy/credit-union---economic-data/data---statistics/credit-union-profile-reports.html> , accessed on February 13th, 2023.

net worth, or 1.75 times the minimum net worth required by the Federal Credit Union Act³, the loans acquired through the SBA are not bound by these limits.⁴

These factors, fueled by tax-exempt status as well, have led to phenomenal growth of the credit union industry (see Figure 1). In 1970, Florida credit unions had 722,000 members, assets of \$567 million and loans of \$459 million. By 1990, there were 2.6 million members, assets reached \$9.7 billion, and loans totaled \$6 billion. In 2001, the credit union industry in Florida had four million members, assets of \$25.6 billion and loans of \$16.2 billion. In 2023, they have 7.2 million members, assets of \$110.8 billion and loans of \$78.5 billion.⁵ Florida’s credit unions are also experiencing higher growth in 2022 compared to other U.S. states with asset, deposit, and loan growth above the national median.⁶

Figure 1.

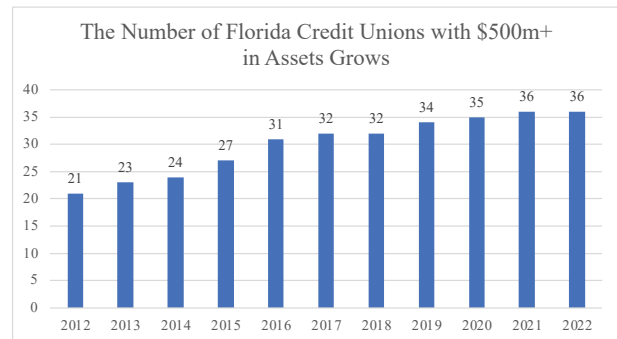


Note: 2023 is as of 2nd quarter (June). Source: National Credit Union Administration

Credit unions are growing in size, but not in number. In 1984, the national industry had 18,375 federally insured credit unions. In 2023 there are just 4,686 in total, and 723 of these have reported assets of over \$500 million. This trend of consolidation has resulted in the 432 largest credit unions in the industry- those with \$1 billion or more in assets- accounting for 75.2 percent of total credit union assets.⁷ This consolidation is even more pronounced in Florida, where 26 credit unions (21.4 percent) with \$1 billion-plus in assets control 83.8 percent of total Florida assets. These larger credit unions benefit from economies

of scale, reducing relative costs of regulatory compliance. As a result, smaller institutions fail to compete and are often acquired by another credit union.

Figure 2.



Source: National Credit Union Administration

Credit Unions Acquiring Banks

While the expansion of credit unions’ financial practices combined with their tax-exempt status has certainly contributed to their growth in recent years, a trend of credit unions acquiring and merging with banks has been the primary source of recent growth. The practice of buying other credit unions is a common route of expansion, but acquiring a bank reaps different rewards. In doing so, credit unions can further diversify their business by tacking over the accounts of banks being acquired, which may include a portfolio of loans that will strengthen the credit union’s presence in different types of lending.

A credit union, as a tax-exempt entity, is limited in the services it is permitted to offer. Traditionally, credit unions were only allowed to provide small personal loans to individuals or households. This limitation stands on the notion that a credit union is a nonprofit entity that doesn’t need to seek out more profitable endeavors, as they don’t have to appease shareholders. More recently, however, the National Credit Union Association (NCUA) has expanded the scope to allow credit unions to conduct some business lending.⁸

Because traditional banks are not bound by these limitations, their share of business loans tends to be

3 National Credit Union Administration, “Aggregate MBL Limit”, retrieved from <https://publishedguides.ncua.gov/examiner/content/examinersguide/loans/commercial&mb/AggregateLimit.htm>, accessed on February 13, 2023.

4 Tatom, “Competitive Advantage: A Study of the Federal Tax Exemption for Credit Unions.”, 2005.

5 National Credit Union Administration, “Credit Union Custom Query”, retrieved from <https://webapps2.ncua.gov/CustomQuery/CUSelect.aspx>, accessed on September 8, 2023.

6 National Credit Union Administration, “Quarterly U.S. Map Reviews” and “Quarterly Credit Union Data Summaries.”

7 National Credit Union Administration, “Quarterly Credit Union Data Summary, 2023 Q1.”

8 Chairman Orrin Hatch, “United States Senate Committee on Finance, Letter to The Honorable J. Mark McWatters,” January 2018.

larger than that of credit unions. Consequently, credit unions can adopt business loans from banks they acquire, increasing their profitability. In buying a taxable financial institution, a credit union gains the power to conduct many of the same practices as that entity, while avoiding the taxes it was subjected to originally. This will result in the growth of credit unions uninhibited by the taxes that their traditional bank counterparts must pay. Credit union acquisitions also have tax implications for governments. Because the credit union is tax exempt, it removes a significant former taxpayer from the governments' tax rolls.

Another consequence of this trend is that many credit unions have "field of membership" requirements that are not met by the banks they seek to obtain. The credit union industry was originally intended to serve low- or modest-income members of communities who would otherwise be denied financial services from a bank or face high costs of borrowing due to their risk. By inheriting customers from the banks they acquire, credit unions will diversify their customer base, further altering their structure to resemble traditional banks. Acquiring banks outside of their community will certainly expand a credit union's member base, but perhaps at the cost of the personalized customer service for which they are known.

The impact of credit union acquisitions on the federal and state tax base is worthy of consideration. Under current law, credit unions that buy banks do not lose their tax-exempt status in doing so. This effectively turns a tax-paying entity into an exempt one, resulting in decreased federal and state tax collections. An unjustified loss in tax revenue hinders lawmakers' ability to improve tax conditions in other areas of need.

In the interest of sound tax policy, institutions conducting similar business practices ought to be taxed the same. In the Senate Report of the Revenue Act of 1951, mutual savings banks lost their tax-exempt status following an assessment by lawmakers, who found that these institutions were no longer fulfilling their intended purpose and were on equal footings with tax-paying businesses offering the same services.⁹ To apply this logic transitively, it is essential to evaluate the degree to which credit unions fulfill their original tax-exempt purpose.

Incentives for Acquisition

Aside from tax advantages, credit unions seeking to grow through acquiring banks can reap other significant benefits. First, credit unions can inherit a diversified financial portfolio from banks, which will mitigate their concentration risk relative to other credit unions. Along with diversifying, the acquiring party may expand their expertise in different types of lending and different geographic markets. Not the least among these benefits is reducing regulatory compliance costs within the acquiring credit union. A growing credit union can reduce the share of total expenses allocated to regulatory compliance through economies of scale.¹⁰

The advantage of geographic expansion should be noted, considering several of the credit unions' acquisitions during this trend have occurred across state lines. Florida is a popular market where credit unions are seeking to conduct business. This is largely due to the state's high-growth market, abundant commercial banking opportunities, and the appeal of Florida as a vacation destination. In 2022, a merger with Detroit Financial Credit Union (DFCU) and First Citrus Bank in Tampa was announced. DFCU's President and CEO Ryan Goldberg noted that some of their Michigan members frequently travel to Florida, and that branching out would extend service to members even while traveling. Lake Michigan Credit Union acquired Naples' Encore Bank in 2017, followed in 2021 by Pilot Bancshares, which has branches in St. Petersburg and Lakeland.¹¹

Tax Treatment

Credit unions are generally exempt from most taxes. Federally chartered credit unions are exempt from the federal corporate income tax and are also exempt from most state and local taxes. The only taxes federally chartered credit unions pay are real and tangible personal property taxes, social security, and unemployment compensation taxes. State credit unions also are exempt from federal income taxes, but they are subject to federal unrelated business income tax. The state and local taxation of state credit unions is largely up to the individual states. Florida law states:

⁹ Marples, "Taxation of Credit Unions: In Brief," 2016.

¹⁰ Andrew P. Meyer, "Why Are More Credit Unions Buying Community Banks?" retrieved from <https://www.stlouisfed.org/publications/regional-economist/first-quarter-2019/credit-unions-buying-community-banks>, accessed on February 8, 2023.

¹¹ Brian Hartz, "Credit unions near and far target Florida banks for acquisition," retrieved from <https://www.businessobserverfl.com/news/2022/may/21/credit-unions-near-and-far-target-florida-banks-for-acquisition/>, accessed on February 8, 2023.

“All credit unions now or hereafter chartered under the laws of the state shall have the same immunity from state and local taxation that federally chartered credit unions have from time to time under the statutes of the United States,”
– Section 213.12 (2), Florida Statutes.¹²

This in effect means that all credit unions in Florida are exempt from all state and local taxes except real and tangible property taxes and payroll taxes.

History of Tax Treatment of Credit Unions

Although the first state credit union was chartered in 1909, the federal tax status of credit unions was not questioned until 1917, when an administrative ruling of the U.S. Attorney General exempted credit unions on the grounds that they closely resembled the mutual and cooperative banks and similar institutions that Congress had expressly exempted from tax by legislation enacted in 1913 and 1916. This legal opinion was the basis for the tax exemption until 1951.

There were no federally chartered credit unions until the 1934 Federal Credit Union Act. The original bill had a tax exemption written into it but, upon consideration, the House of Representatives struck the exemption from the law. In 1935, however, the Commissioner of Internal Revenue ruled that federal credit unions were tax exempt. After another attempt to provide a statutory exemption failed in 1936, Congress amended the Federal Credit Union Act in 1937 to exempt federal credit unions from federal and most state and local taxation. Since mutual banks, mutual insurance companies, and mutual savings and loans were tax exempt at that time, this provided consistent treatment for credit unions.

The Revenue Act of 1951 extended the tax exemption for federal credit unions to state credit unions as well; however, it also repealed the tax-exempt status of savings and loans, mutual savings banks, and cooperative banks since it considered them to be more and more like other profit-seeking financial institutions. These institutions had reached a point of “active competition” with taxable institutions. Congress did allow the institutions a very liberal allowance for bad debt reserves that resulted in very low tax liabilities. In 1962, this allowance was changed, resulting in significant increases in taxes paid by thrift institutions. At the same time, it provided credit unions the tax exemption, Congress also designated federal credit unions as federal instrumentalities. If requested by the Treasury, federal credit unions were to act as fiscal agents of the United States, performing

services connected with tax collection and being depositories of public funds. This designation exempts federal credit unions from federal unrelated business income taxes and state sales taxes.

Depository institutions, including banks, also received numerous tax preferences prior to the Tax Reform Act of 1986. Their primary justification was the extensive regulations imposed on depository institutions. These tax preferences lowered the effective federal income tax rate on depository institutions below the average effective tax rate for all businesses.

In a move towards a more neutral tax system for all industries, the Tax Reform Act of 1986 curtailed or eliminated many tax preferences for depository institutions. These included the treatment of bad debt reserves, the deduction for interest to carry tax exempt obligations, and special rules for net operating losses. As a result, the effective tax rate of depository institutions has risen to approximate that of other businesses.

This more neutral tax treatment of financial institutions has resulted in heightened criticism by some of the tax exemptions provided credit unions. Prior to 1960, credit unions were still small, limited-service organizations that drew little attention from competitors; however, as credit unions grew larger and began offering more services, competitors and tax authorities began to take notice. The Internal Revenue Service (IRS) has questioned-- and even revoked-- the tax-exempt status of several credit unions, usually over the question of common bond. These revocations have been subsequently reversed by the IRS or overturned by the courts. The 1970s and 1980s also saw several attempts to remove the tax exemption for credit unions. It was part of wide-ranging tax exemption repeal legislation before Congress in 1972. Presidents Carter and Reagan also proposed removing the exemption.

How Much are Credit Union Tax Exemptions Worth?

Using detailed financial information on each individual credit union in Florida from the NCUA, Florida TaxWatch has developed new estimates for the major credit union state tax exemptions: the corporate income tax, the intangibles tax, the sales tax, and the documentary stamp tax. Florida TaxWatch also estimated the value of the exemption from the federal corporate income tax and the local option sales tax available to Florida counties.

¹² § 213.12(2) Fla. Stat.

Corporate Income Tax

All credit unions in Florida are exempt from both state and federal corporate income taxes and this exemption is the largest one afforded credit unions. In its annual report detailing federal tax expenditures, the U.S. Department of the Treasury estimates that, nationwide, the federal income tax exemption alone will be worth \$2.9 billion in 2024 and \$34.7 billion to all credit unions over ten years.¹³

Using this U.S. Treasury data, an estimate of the value of Florida credit unions federal income tax exemption can be extrapolated. Based on several measures (e.g., assets, loans, savings, members), the Florida credit union industry makes up approximately five percent of the industry nationwide. Assuming Florida credit unions account for five percent of the total estimate, the federal corporate income tax exemption saves them \$148.0 million this year, or \$1.7 billion over ten years.

To estimate the value of Florida credit unions' exemption from federal and state income taxes, Florida TaxWatch estimated the tax burden for each credit union in the state if they were subject to the same tax as banks and savings associations. Net income (income minus expenses and interest and dividends paid) was used for taxable income. To allow for possible deductions and credits not reflected in the credit union data, taxable income was reduced by 20 percent. For the Florida tax, the standard \$5,000 deduction was subtracted, and the 5.5 percent tax rate was applied. Based on these data, and taking the average for the last two years, credit unions would have had a state income tax liability of approximately \$40.9 million annually.¹⁴ Florida TaxWatch also estimated federal income tax exemption by applying the 21 percent tax rate to net income for each credit union. Since corporations may deduct state taxes paid from their federal corporate income taxes, the estimate for the state taxes paid by each credit union was also deducted. This resulted in an estimate of \$147.8 million. The results were very close to the above estimate.

Florida Taxwatch also examined estimates of federal income taxes owed by credit unions if they were taxed from the Credit Union National Association (CUNA). CUNA annualized first-quarter 2023 data in its estimates and estimated Florida credit union tax liability for 2023 at \$142.8 million.¹⁵

How credit unions would respond to being taxed is unknown, but it is likely that some would take steps to

lower their taxable income. Instead of building credit union capital, members could instead opt for higher dividends, lower loan rates, or increased services. As another example, credit unions could alter their investment portfolios to hold more tax-exempt securities in order to lower their tax liability. The Treasury estimate attempts to account for this impact.

All three federal corporate income tax estimates Florida TaxWatch calculated or examined were very close. Florida TaxWatch will use the estimate we calculated with credit union data--\$147.8 million—which was in between the other two. **The total federal and state corporate income tax exemption afforded credit unions is an estimated \$188.7 million annually (see Table 1).**

Table 1: Corporate Income Tax Exemption
(in millions of dollars)

	State Tax	Federal Tax	Total
State Chartered	\$8.1	\$29.5	\$37.6
Federal Chartered	\$32.8	\$118.3	\$151.1
Total	\$40.9	\$147.8	\$188.7

Sales Tax

The estimate for the value of credit unions' sales tax exemption on purchases they make is based on operating expenses. The first step was to decide how much of those expenses were taxable purchases. Florida TaxWatch started with each credit union's total reported expenses, less interest expense and loan losses. Categories where expenses would generally be non-taxable were also subtracted --- such as salaries and benefits and professional services. This resulted in total taxable purchases of \$742.5 million (28.3 percent of expenses).

This was the same assumption for the percent of taxable expenses that was used in the earlier reports, which was developed in consultation with Florida Department of Revenue staff and others---28 percent of total expenses (not including interest, dividends or provisions for loans and investment losses). This translates into state sales

¹³ U.S. Department of the Treasury, Tax Expenditures FY2024, December 2022 (updated March 2023). <https://home.treasury.gov/policy-issues/tax-policy/tax-expenditures>

¹⁴ Estimated using credit union data from the fourth quarter of 2022 (the most recent full year).

¹⁵ Credit Union National Association, Tax Estimates by State, 2023.

<https://www.cuna.org/advocacy/credit-union---economic-data/data---statistics.html>

taxes (at six percent) of \$44.5 million. The applicable local sales tax rate (currently ranging from 0 percent - 1.5 percent, depending on each credit union's location) resulted in \$9.4 million in foregone local government tax revenue. It should be noted that any potential sales tax liability from leasing commercial property is not included in these estimates.¹⁶ **The total state and local sales tax exemption afforded credit unions is an estimated \$53.9 million annually (see Table 2).**

Table 2: Sales Tax Exemption

(in millions of dollars)

	State Tax	Local Tax	Total
State Chartered	\$9.4	\$2.0	\$11.4
Federal Chartered	\$35.1	\$7.4	\$42.5
Total	\$44.5	\$9.4	\$53.9

Intangibles Tax

Real estate loans are a growing business for credit unions. Mortgages and other obligations secured by liens on Florida realty are subject to a non-recurring, two-mill tax due at recordation. Although technically it is a tax on the lender, Florida law allows the tax to be directly passed on to the borrower as is common practice. Since the tax is the responsibility of the lender, and credit unions are exempt, the tax is not collected on mortgages they issue. If taxed, although this would not add to credit unions' direct tax burden, it would produce revenue for the state, as well as address one of the competitive advantages credit unions have over other lenders. The dollar amount of real estate loans made by Florida credit unions in 2022 was not available, but the amount of total loans was accessible, as was the percentage of loan portfolios various loan types comprise.¹⁷ Assuming credit unions made mortgage and home equity loans equal to the percentage of their portfolio's these loans make up (35 percent), credit union made an estimated \$10.2 billion in these real estate loans during 2022. **Assuming 80 percent of these loans were secured by liens on Florida realty, credit unions' tax exemption amounts to \$16.4 million annually (see Table 3).**

Table 3: Intangibles Tax Exemption:

(in millions of dollars)

	State Tax
State Chartered	\$3.0
Federal Chartered	\$13.4
Total	\$16.4

Documentary Stamp Tax

Credit unions are also exempt from documentary stamp taxes on loans when they are the borrower. Although borrowing has been increasing, many credit unions do little if any borrowing. Still, Florida credit unions reported borrowings of \$3.9 billion in 2022, but only two credit unions accounted for more than half of that amount. It is difficult to determine the details of the borrowing from the data available. In addition, there is a cap of \$2,450 per transaction on documentary stamps due on unsecured loans. It should also be noted that the lender is the taxpayer, so while the credit union may be exempt, the lender will still be liable for it. So, this exemption is of minor fiscal impact. Documentary stamp taxes also apply to mortgages and other loans issued by financial institutions. Since this tax can be passed on, documentary stamps are collected from the borrower on mortgages and non-open-ended loans made by credit unions.

Total Taxes

Credit unions also have exemptions from a few other state and local taxes such as communications services taxes and local businesses taxes. The value of these would be relatively minor, and this report does not consider them. **Based on the estimates discussed above, the total value of tax exemptions afforded Florida credit unions is estimated to be \$259.0 million annually (see Table 4). Of this amount, \$147.8 million are federal taxes, \$101.8 million are state taxes, and \$9.4 million are local taxes.**

¹⁶ Florida levies a 5.5 percent sales tax (plus any local rate) on commercial leases (known as "the Business Rent Tax"). The credit union tax exemption applies to that tax. However, credit union lease payment data was not available and most credit unions—and all of the largest ones—report significant land and building assets. In addition, the Business Rent Tax rate is scheduled to be reduced to 2.0% in 2024. Florida TaxWatch did not attempt to included commercial lease payments this in the estimate.

¹⁷ Credit Union National Association, "Florida Credit Union Profile Report," first quarter 2023.

Table 4: Estimated Value of Florida Credit Union Tax Exemptions

(in millions of dollars)

	State		Federal
Income Tax	\$40.9	Income Tax	\$147.8
Intangibles Tax	\$16.4	Local	
Sales Tax	\$44.5	Local Sales Tax	\$9.4
Total State Taxes	\$101.8	Total All Taxes	\$259.0

Credit Union Exemption vs. Taxes Paid by a Similar Bank

To demonstrate the difference between taxes paid by similar banks and credit unions, a hypothetical Florida depository institution with assets of \$150 million was examined. This institution was created by averaging financial data of ten Florida credit unions around the median for assets. This institution has taxable income of \$622,828, expenditures subject to sales tax of \$846,636 and total real estate loans of \$10.0 million. If this institution is a bank or savings association, it would incur a total income tax liability of approximately \$180,700, total sales taxes of \$60,500, and intangibles taxes of \$18,000. **While this bank would pay total taxes of \$259,200, if this institution were a credit union, it would pay none of these taxes.**

For Comparison: Taxes Paid by Florida Families

To calculate the sales and income tax burden on an “average” Florida family, Florida TaxWatch used the statewide median family income of approximately \$74,000.¹⁸ The estimates made in 2003 used a percent of income used to pay state sales taxes of 2.48 percent.¹⁹ Applying that percentage to the median family income results in a state sales tax burden of \$1,835. Assuming the

family lives in a county with a one percent local option sales tax,²⁰ their total state and local sales tax burden climbs to \$2,141.

The U.S. Internal Revenue Service published the average personal income tax liability by income level. The average income tax for the adjusted gross income range of \$50,000-\$75,000 is \$4,567. Since Florida’s median family income is at the top of that range, the average effective tax rate for the entire range (7.3 percent) was applied to \$74,000. The result is an income tax burden of \$5,407 for the median Florida family.

Therefore, this “average” family with an income of \$74,000 would incur sales and federal income taxes of approximately \$7,548.

Relatively Few Credit Unions Account for the Majority of Tax Exemption Value

Florida’s credit unions vary greatly in size, with assets ranging from only \$2.6 million to \$16.7 billion. The trend is fewer, but bigger, credit unions through consolidations, but most credit unions are still relatively small. Half of Florida credit unions have assets of less than \$150 million but even those at the small end of the scale are getting bigger. In 2023, 75 percent have assets of less than \$800 million. In 2001, 75 percent were under \$50 million. Still, the larger credit unions comprise the lion’s share of the value of the total credit union tax exemption. The two largest credit unions, both with assets totaling \$30 billion, comprise 25.0 percent of the total tax exemption. The 25 credit unions with assets topping the \$1 billion mark make up 21 percent of all credit unions, but 84 percent of the tax exemption value.

¹⁸ Florida Legislature, Office of Economic and Demographic Research, Florida County Profiles.

¹⁹ Based on data from the Florida Legislature and the Consumer Expenditure Survey

²⁰ Most Florida counties have a one percent local option sales tax. The population-weighted average state and local tax rate for all Florida counties is 7.01 percent (see Florida TaxWatch, How Florida Compares: Taxes 2022).

Conclusion

As a result of their sustained tax-exempt status and recent trends of consolidation, the credit union industry has continued evolving. Larger credit unions have been acquiring or merging with smaller credit unions and banks in recent years. These large Florida credit unions (\$1 billion+ in assets) now make up 84 percent of total credit union assets. There are still credit unions that are small, limited-service institutions with tight common bonds; however, there are several large, full-service credit unions that compete directly with tax-paying financial institutions. This was not envisioned when credit unions were created, and the tax exemption was written into law.

Recently, several Florida banks have been the targets of credit unions looking to extend their reach into the state's appealing market. Several acquisitions have already occurred as credit unions seek to acquire more diverse loans, expand their lending expertise, and grow their membership base. Because this action involves a tax-exempt business buying a tax-paying one, it is crucial to examine the effect it has on their business activity.

Despite this transformation, credit unions maintain the same tax-exempt status. It is important to note that savings and loans, mutual savings banks, and cooperatives lost their tax-exempt status in 1951 when Congress decided these institutions had changed and considered them to be more like other profit seeking financial institutions.

A fair tax structure requires that similarly situated entities are taxed similarly. There have been several attempts to repeal credit unions' tax exemption for the same reasons these other institutions lost their exemptions. Florida TaxWatch has estimated, using state-level data from the National Credit Union Administration, the current value of major credit union state tax exemptions: the corporate income tax, the intangibles tax, the sales tax and the documentary stamp tax. As credit unions have grown significantly since last examined, so have these estimates. The estimated value of the exemptions for Florida credit unions is now \$259.0 million, up from \$102 million in 2021. As the credit union industry continues to grow and evolve, its tax exemption becomes harder to justify.

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As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the citizens of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

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