

POLITICAL SUBDIVISIONS:
PUBLIC WATER SUPPLY DISTRICTS:
TAXATION:
EXEMPTIONS
SALES TAX

A public water supply district organized under the provisions of Chapter 247, RSMo 1959, is a "political subdivision" within the meaning of that term as used in Section 39 (10), Article III,

Constitution of Missouri 1945, and such districts are not subject to sales or use tax for the purchase of materials or equipment made directly by the district out of its funds to be owned exclusively by and for the exclusive use of the district.

109 (1967)
OPINION NO. 550

April 25, 1967

Honorable Don R. Ferry
Prosecuting Attorney of Vernon County
Reed Building
Nevada, Missouri



Dear Mr. Ferry:

This is in answer to the request of your predecessor for an opinion of this office as to whether sales or use taxes may be imposed upon the sale of personal property to a public water supply district.

The request states that:

"Public Water Supply District No. 1 of Barton County, Missouri, is a public water supply district formed in Barton County, Missouri, under the provisions of Sections 247.010 through 247.220, Revised Statutes of Missouri, 1959, by decree of the Circuit Court of Barton County, Missouri, entered in case 11828 on 17 October 1966.

* * * * *

"The United States of America acting through the Farmers Home Administration, U.S. Department of Agriculture, has approved an insured loan on revenue bonds to be issued by the district in the amount of \$800,000.00 and a grant of \$350,000.00 for the construction of the rural waterworks system.

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"Contracts for construction (not including the purchase of pipe and material such as meter pits) will be awarded private contractors on a competitive bid basis and will be conditioned upon use by the contractor of plastic pipe and material purchased by, owned exclusively by, and for the exclusive use of the district."

The question is whether the district is exempt from the payment of sales or use taxes upon the purchase of the pipe and other materials for use by the district.

Article III, Section 39, of the Missouri Constitution 1945 provides:

"The general assembly shall not have power:

"10. To impose a use or sales tax upon the use, purchase or acquisition of property paid for out of the funds of any county or other political subdivision." (Emphasis added) See also Section 144.030, RSMo Supp.

This office in an opinion written to Mr. G. H. Bates, State Collector of Revenue, on August 9, 1946, held that the proper definition of the term "other political subdivision" as used above is found in Section 15, Article X, of the Missouri Constitution, which is as follows:

"The term 'other political subdivision', as used in this article, shall be construed to include townships, cities, towns, villages, school, road, drainage, sewer and levee districts and any other public subdivision, public corporation or public quasi-corporation having the power to tax."

Section 247.010, RSMo 1959, states that the purpose of authorizing public water supply districts is to make possible through public corporations conveniences in the use of water to the many inhabitants of this state now denied such privileges and thereby promoting public health and sanitation, make available conveniences not otherwise possible, and for the general public welfare.

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Section 247.020, RSMo 1959, states that such districts shall be political corporations of this state.

Public water supply districts are given the power through the county court to tax all taxable property within the district. Section 247.050 (11), (12), (13), (14) and 247.120, RSMo 1959,

Inasmuch as public water supply districts are designated as public corporations and political corporations of this state and are given the power of taxation within the district, it is our opinion such districts are included in the term other political subdivisions as this language is used in Section 39 (10), Article III, of our Constitution, and no sales or use tax may be levied upon purchases paid for directly out of the funds of the district. The purchase of plastic pipe and other materials necessary to install a water supply system made directly by the district falls within this exemption.

Inasmuch as a contractor who contracts to build an installation is liable for sales and use tax upon the materials used, as the ultimate consumer thereof, even though he is employed by an exempt organization, *City of St. Louis v. Smith*, Mo. Sup., 114 S.W.2d 1017, the exemption given to public water supply districts applies only to materials purchased directly by such districts out of their funds and owned exclusively by and for the exclusive use of the district. We do not rule upon the question presented when such materials are purchased by a contractor on behalf of a district under some kind of contract or agreement whereby title is taken by the district rather than the contractor.

Neither does this exemption apply to water districts formed for profit by individuals for the purpose of selling water to the public and which have no power of taxation.

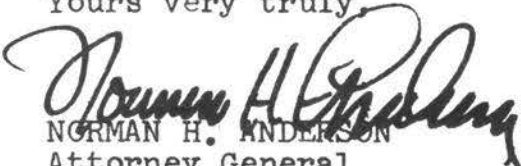
CONCLUSION

A public water supply district organized under the provisions of Chapter 247, RSMo 1959, is a "political subdivision" within the meaning of that term as used in Section 39 (10), Article III, Constitution of Missouri 1945, and such districts are not subject to sales or use tax for the purchase of materials or equipment made directly by the district out of its funds to be owned exclusively by and for the exclusive use of the district.

Honorable Don R. Ferry

The foregoing opinion, which I hereby approve, was prepared
by my Assistant, John H. Denman.

Yours very truly,


NORMAN H. ANDERSON
Attorney General

Enclosure: