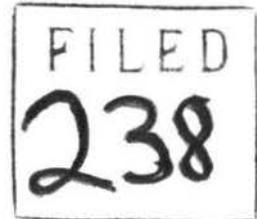


TAXATION (SALES TAX):

The total amount of the monthly water bills paid by patrons of Public Water Supply District No. 2, of Barton County, are subject to the State Sales Tax.

OPINION NO. 238

May 2, 1968



Honorable Edison Kaderly
Prosecuting Attorney
Barton County
Lamar, Missouri 64759

Dear Mr. Kaderly:

This opinion is in response to your request concerning the portion of monthly water bills which is subject to Missouri Sales Tax. The pertinent facts are stated as follows:

"Public Water Supply District No. 2, of Barton County, Missouri, borrowed \$200,000 from the United States Government on a water works revenue bond payable in annual installments of \$11,020.

The rural water district has 193 customers, and to pay principal and interest will collect \$918.33 a month from these customers, or \$4.75 per customer for debt retirement.

The monthly billing for each customer will be as follows:

Monthly debt retirement contributions	\$4.75
First 1,000 gallons used	1.00
Second 1,000 gallons used	1.00
Next 2,000 gallons used	.90 per M
Next 2,000 gallons used	.80 per M
Next 4,000 gallons used	.70 per M
All additional gallons	.60 per M

The bonds to be retired are waterworks revenue bonds payable solely from revenues and not from taxes. They are issued pursuant to the authority granted a rural water district in Section 247.130, Revised Statutes of Missouri, 1959."

Honorable Edison Kaderly

The applicable section of the Missouri Sales Tax provisions is Section 144.020, RSMo Cum. Supp. 1967, which provides as follows:

"1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state.
The rate of tax shall be as follows:

* * * * *

(3) A tax equivalent to three per cent of amounts paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

* * * * *

(Emphasis added.)

The section under which the bonds in question were issued is Section 247.130, RSMo 1959, which provides as follows:

"5. Special obligation bonds, within the meaning of sections 247.010 to 247.220, shall be bonds payable, both as to principal and interest, wholly and only out of the net income and revenues arising from the operation of the waterworks system of any such district, after providing for costs of operation, maintenance, depreciation and necessary extensions and enlargements, and such bonds shall not be deemed to be indebtedness of any such district within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Before or at the time of issuing any such special obligation bonds, the board of directors shall pledge such net income and revenues to the payment of such bonds, both principal and interest, and shall covenant to fix, maintain and collect rates for water and water service supplied by such district so as to assure that such net income and revenues will be sufficient for the purposes herein required."
(Emphasis added.)

Honorable Edison Kaderly

Thus, from the underscored portion of Section 144.020, we see that the sales tax is applied to amounts paid or charged on all sales of water. The underscored portion of Section 247.130 states that the bonds in question may be paid only from the net income and revenue arising from the operation of the waterworks and that the rates collected for water and water service shall be maintained so as to produce a sufficient net income for this purpose.

In pursuance of Section 247.130, the water district in question has computed a charge of \$4.75 to be included within the rates for water and water service so as to provide funds for payment of the special obligation bonds. The fact that the water district has chosen to earmark this part of the charge is of no significance since the tax applies to "all amounts paid or charged" with no exception made for any items which make up the total charge.

Enclosed is a copy of Opinion No. 56, Morris, 4/12/62, a prior opinion of this office, which deals with a similar situation in which there was a question as to the application of the Missouri Sales Tax to a surcharge on a public utility which was passed on to the customers as a separate item on their bills. The ruling in that opinion states that:

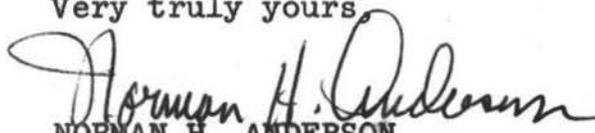
"Regardless of whether a utility bills its customers with a single figure showing the total amount charged for services rendered, or if the billing displays a basic charge plus a proportionate charge based upon a local license tax, the customer is still liable for the payment of Missouri sales tax upon the total amount charged."

CONCLUSION

Therefore, it is the opinion of this office that the total amount of the monthly water bills paid by patrons of Public Water Supply District No. 2, of Barton County, are subject to the State Sales Tax.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Thomas J. Downey.

Very truly yours,


NORMAN H. ANDERSON
Attorney General

Enc.--Op. No. 56; Morris; 4/12/62