

January 15, 1974

OPINION LETTER NO. 74
Answer by letter-Wieler

Honorable Charles J. Becker
Representative, District 123
& House Post Office, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Becker:

This is in response to your request for an opinion as to whether or not a third class city can exempt churches and other not-for-profit organizations from the gross receipts tax imposed upon utilities furnishing services to the citizens of the city.

The statutory powers of third class cities with respect to taxation are contained in Sections 94.010 to 94.180, RSMo 1969. Presumably, the gross receipts tax mentioned in your opinion request is a license tax on public utilities enacted pursuant to Section 94.110, RSMo 1969. This tax imposed upon public utilities for the privilege of doing business within the city is in turn passed on to the consumers pursuant to a tariff approved by the Public Service Commission under the provisions of Chapter 386, RSMo. Inasmuch as the tax in question is levied against the utilities, not their individual customers, we fail to see how a city could exempt organizations from a tax which has not been levied upon them directly.

In any event, the power of a third class city to exempt from taxation has been limited by Section 94.050, RSMo 1969. This section provides:

"The city council shall have no power to relieve any person from the payment of any tax, or exempt any person from any burden imposed by law."

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In the absence of any language to the contrary, the definition of the term "person" in statutes of this state must be given a broad meaning. Section 1.020(7), RSMo 1969, provides as follows:

"As used in the statutory laws of this state, unless otherwise specially provided or unless plainly repugnant to the intent of the legislature or to the context thereof:

* * *

(7) The word 'person' may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations;"

Accordingly, it is our opinion that Section 94.050, RSMo 1969, would prevent a third class city from relieving churches or other not-for-profit organizations from the payment of any tax. This would be especially true when the tax is not a tax levied directly against the churches or other not-for-profit organizations, but rather is a license tax levied against a public utility, the cost of which is borne by the utility's customers in the form of tariffs approved by the Public Service Commission.

We are enclosing a copy of Opinion Letter No. 122 rendered March 12, 1962, to Charles D. Trigg as to the liability of the state to pay the cost of utility service.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. Ltr. No. 122
3-12-62, Trigg