



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 18, 1976

ATTORNEY GENERAL OPINION NO. 76-258

Mr. William J. Ryan
City Attorney
301 East Wasington Street
Norton, Kansas 67654

RE: Sales Tax--Municipal Exemptions--Electrical Plant.
K.S.A. 1975 Supp. 79-3606(b).

Synopsis: A city, buying tangible personal property or service, must pay the sales tax on items which are used or proposed to be used in a business specifically taxable under the sales tax act. Engaging in the sale of electricity is specifically taxable, even when furnished by a municipality. The purchase of a Peak Electrical Generator for use in the Norton electrical system is subject to Kansas sales tax.

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Dear Mr. Ryan:

You write that the City of Norton is purchasing a \$620,000.00 Peak electrical generator unit to provide back-up for the existing municipal electrical system. You ask if such purchase is subject to the 3% Kansas sales tax.

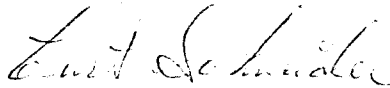
K.S.A. 1975 Supp. 79-3603(c) provides that a tax of 3% shall be levied upon the gross receipts from the sale of electricity "whether furnished by municipally or privately owned utilities". K.S.A. 1975 Supp. 79-3606(b) exempts all sales of tangible personal property to cities except when such city is "engaged or proposes to engage in a business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business".

Mr. William J. Ryan
August 18, 1976
Page 2

In our opinion, this is a clear and unmistakable legislative intent to tax municipalities under the sales tax law, not only on their purchases of personal property to set up the business of an electrical system, but to collect and remit sales tax on the proceeds from the sale of electricity. When the city engages in a retail business, it must assume all the tax burdens of a retailer in such business.

We, therefore, believe the city of Norton is liable to pay the Kansas 3% sales tax on the generator unit it proposes to add to its electrical system.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/cgm