



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

May 10, 1978

ATTORNEY GENERAL OPINION NO. 78- 161

Mr. J. Patrick Hyland
Washington County Attorney
115 East Third
Washington, Kansas 66968

Re: Hospitals--County Hospitals--Taxation

Synopsis: The board of county commissioners has no authority to exempt property located in the county constituting the territory of a township hospital district organized under K.S.A. 80-2113 *et seq.* from the payment of taxes levied for the operation of a county hospital organized under K.S.A. 19-1801 *et seq.* The payment of taxes for operation of the county hospital by owners of property located in said township hospital district does not constitute constitutionally prohibited double taxation.

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Dear Mr. Hyland:

You advise that after approval by the voters of Washington County of the establishment of a county hospital at the 1944 general election, the board of county commissioners, on December 4, 1944, appointed a board of trustees therefor, pursuant to G.S. 1935 19-1803 *et seq.* Since that time, the hospital has been operated as a county hospital pursuant to that act. In March 14, 1949, the board of county commissioners entered an order establishing a hospital district pursuant to G.S. 1949 Supp. 80-2113 and -2114. The hospital district thus created was identified as the Washington County Hospital District No. 1, and included land in Hanover, Charleston and Franklin townships, and the incorporated territory of the City of Hanover.

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You advise that recently, residents of the Hanover hospital district have objected to paying the levy for operation of the county hospital, and the board of directors of the district are petitioning the board of county commissioners of Washington County, Kansas, to exclude the territory of the hospital district from the payment of taxes levied for the support of the county hospital. You ask whether there is authority for such an exclusion, and if not, whether the levy of taxes upon property within the Hanover hospital district for the operation of both the district and the county hospital constitutes double taxation.

We have reviewed the act under which the county hospital is established and maintained, and we find no authority for exclusion of any portion of the territory of a hospital district organized under K.S.A. 80-2113 *et seq.* from the payment of taxes levied for the operation and maintenance of a county hospital under K.S.A. 19-1801 *et seq.* Indeed, the county hospital is operated by the county, and taxes levied therefor by the county must be uniform and equal throughout the territory of the county. In *State ex rel. Londerholm v. Hayden*, 197 Kan. 199, 416 P.2d 61 (1966), the court stated thus, in ¶ 4 of the syllabus:

"The provisions of Article 11, Section 1 of the Kansas Constitution requiring 'a uniform and equal rate of assessment and taxation' only requires a uniform and equal rate throughout the territory in which the tax is levied and the principle of equality is fully satisfied by making local taxation equal and uniform within the limits of the taxing district."

Thus, the board of county commissioners has no authority to accede to a request by the district hospital board of trustees to exempt any property in the county from the payment of taxes levied for operation of the county hospital.

The objection of payment of levies for operation of the county hospital by property owners within the township hospital district based upon arguments of double taxation is without merit. At 71 Am.Jur.2d, *State and Local Taxation*, § 31, the writer states thus:

"Not every kind of duplicate taxation is proscribed. . . . Thus, it is frequently

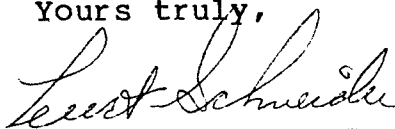
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stated or implied that before invalid double taxation may be said to exist, both taxes must have been imposed in the same year, for the same purpose, upon property owned by the same person, and by the same taxing authority." [Footnotes omitted.]

The taxes levied for the county hospital and the hospital district, although levied for the same general purpose, *i.e.*, hospital operation, are levied for the operation of different institutions, one established for the benefit of all inhabitants of the county, K.S.A. 19-1810, and the other for the benefit of the residents of the hospital district, see K.S.A. 80-2126. The tax is levied by the board of county commissioners for the county hospital, and by the board of county commissioners, acting at the direction of the district hospital board of trustees, for the hospital district.

In my judgment, the levy of taxes for the operation of the county hospital upon taxable property located in the hospital district does not constitute a constitutionally prohibited instance of double taxation.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj