



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 87- 5

E. A. Mosher  
Executive Director  
League of Kansas Municipalities  
112 West Seventh Street  
Topeka, Kansas 66603

Re: Taxation--Property Exempt From Taxation--Claim to  
be Filed Each Year

Constitution of the State of Kansas--Finance and  
Taxation--Exemption of Property for Economic  
Development Purposes

Synopsis: Under the provisions of K.S.A. 1986 Supp. 79-213,  
the Board of Tax Appeals is authorized to examine  
the legal and factual basis of an economic  
development tax exemption granted pursuant to  
Article 11, Section 13 of the Kansas Constitution.  
However, the Board has no authority to review the  
advisability of granting a proposed exemption, as  
that policy decision has been delegated to the  
governing body of the city or county by Article 11,  
Section 13 of the Kansas Constitution. Cited  
herein: K.S.A. 1986 Supp. 79-213; Kan. Const.,  
Art. 11, §13.

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Dear Mr. Mosher:

You request clarification of Attorney General Opinion No.  
86-168. Specifically, you ask whether the Board of Tax  
Appeals is authorized under K.S.A. 1986 Supp. 79-213 to review

the advisability of an economic development tax exemption granted pursuant to Article 11, Section 13 of the Kansas Constitution.

In Attorney General Opinion No. 86-168, we concluded, in part, as follows:

"While cities and counties may grant economic development tax exemptions pursuant to Article 11, Section 13 of the Kansas Constitution, the Board of Tax Appeals is authorized under K.S.A. 79-213 (as amended) to examine the legal and factual basis of any such exemption and to determine its merits." (Emphasis added.)

The underscored portion of the above-quoted excerpt emanated from language in subsection (i) of K.S.A. 1986 Supp. 79-213, and was included in the opinion to emphasize that the Board of Tax Appeals could deny an exemption if it found that there was no legal or factual basis therefor. We did not intend to imply that the Board has discretion to review the advisability of a proposed exemption, as we believe that policy decision has been delegated to the governing body of the city or county by Article 11, Section 13 of the Kansas Constitution.

In summary, it is our opinion that under the provisions of K.S.A. 1986 Supp. 79-213, the Board of Tax Appeals is authorized to examine the legal and factual basis of an economic development tax exemption granted pursuant to Article 11, Section 13 of the Kansas Constitution. However, the Board has no authority to review the advisability of granting a proposed exemption, as that policy decision has been delegated to the governing body of the city or county by Article 11, Section 13 of the Kansas Constitution.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
Assistant Attorney General