



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

October 11, 1977

ATTORNEY GENERAL OPINION NO. 77- 333

Mr. Ed Rensmeyer
Municipal Accounting Section
Department of Administration
11th Floor - State Office Building
Topeka, Kansas 66612

Re: Cities--Home Rule--Countywide Retailers' Sales Tax

Synopsis: A city which exempts all or any part of its ad valorem property tax levies from the aggregate limitations of K.S.A. 1976 Supp. 79-5001 et seq., known as the tax lid, thereby eliminates or reduces pro tanto the basis for distribution to such city of its proportionate share in the proceeds of a countywide retailers' sales tax under K.S.A. 1976 Supp. 12-177.

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Dear Mr. Rensmeyer:

K.S.A. 12-177 provides for the distribution of the proceeds of a countywide retailers' sales tax in part as follows:

"(1) one-half of all revenue received by the county treasurer shall be apportioned among the county and each city and community junior college district all or a part of which is located in such county in the proportion that the total tangible property tax levies made in such county in the preceding year for all funds of each such governmental unit, except funds, tax levies for which are not subject to the limitations imposed by this act, bear to the total of all such levies made in the preceding year"

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The 1977 legislature exempted all tangible property tax levies made by community junior college districts from the aggregate levy limitations of K.S.A. 1976 Supp. 79-5001 et seq., commonly known as the tax lid. Accordingly, in Opinion No. 77-261, we concluded that on and after January 1, 1978, a community junior college district, all or part of which was located in a county levying a countywide retailers' sales tax, would not be entitled to share in the proceeds thereof, because it had no basis for distribution under the statute quoted above, i.e., it had made no levies in 1977 which were subject to the tax lid.

The question is now raised whether a city which by charter ordinance has exempted all or any portion of its tangible property tax levies made in 1977 from the tax lid has jeopardized its entitlement to share in the proceeds of a countywide retailers' sales tax under K.S.A. 12-177. To the extent that a city has by charter ordinance exempted all or any portion of its total tangible property tax levies from the tax lid, it will have eliminated or reduced the basis for its distributive share in the countywide retailers' sales tax proceeds under the cited statute. That provision was enacted in 1973, as section 22 of chapter 393, L. 1973. In Opinion No. 77-253, we pointed out that that enactment did not apply uniformly to all cities, and that a city was free in the exercise of its home rule powers under Article 12, § 5 of the Kansas Constitution to exempt itself from sections of that act which imposed aggregate limitations on the levy of ad valorem property taxes by Kansas municipalities.

Section 22 of that act, now appearing as K.S.A. 12-177, does not deal with a strictly local municipal matter, but rather with the distribution of a countywide retailers' sales tax among the county and all cities in the county. A city may exercise its constitutional home rule powers only respecting matters which deal with "local affairs and government." The distribution of a countywide retailers' sales tax is not merely a local or municipal affair, and statutory provisions therefor are beyond the reach of a municipal charter ordinance, notwithstanding the enactment of which the provision is a part does not itself apply uniformly to all cities.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj