



STATE OF KANSAS

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October 10, 1983

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ATTORNEY GENERAL OPINION NO. 83- 155

Laurel D. McClellan  
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P.O. Box 478  
Fredonia, Kansas 66736

Re: Taxation--Kansas Retailers' Sales Tax--Exempt Sales

Synopsis: A rural water district is not a "political sub-division," as said term is defined in K.S.A. 1982 Supp. 79-3602(n), and is not within the exemption from retailers' sales tax prescribed by subsection (b) of K.S.A. 79-3606. Cited herein: K.S.A. 1982 Supp. 79-3602, 79-3603, 79-3606, 82a-615, K.S.A. 82a-616, K.S.A. 1982 Supp. 82a-619.

\* \* \*

Dear Mr. McClellan:

As attorney for Rural Water District No. 11, Wilson County, Kansas, you request our interpretation of K.S.A. 1982 Supp. 79-3606(b). Specifically, you ask whether a rural water district is included within the exemption from retailers' sales tax prescribed by the aforesaid statute.

K.S.A. 1982 Supp. 79-3606(b) exempts the following sales from the retailers' sales tax:

"[A]ll sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other

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than a school or educational institution, or purchased by a public or private non-profit hospital or nonprofit blood bank and used exclusively for state, political subdivision, hospital or nonprofit blood bank purposes, except when such state, political subdivision, or hospital 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." (Emphasis added.)

As indicated by the underscored portion of the above-quoted statutory excerpt, a threshold question, in determining whether a retail sale to a rural water district is within the subject exemption, is whether such a district is a "political subdivision." The term "political subdivision," as used in the Kansas Retailers' Sales Tax Act, is defined as follows:

"'Political subdivision' means any municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or which certifies a levy to a municipality, agency or subdivision of the state which is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. Such term shall include any housing, airport, port, metropolitan transit or similar authority established pursuant to law." (Emphasis added.) K.S.A. 1982 Supp. 79-3602(n).

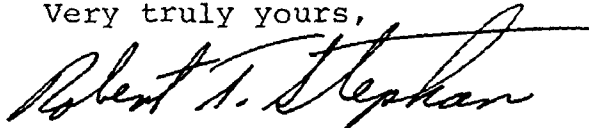
Although a rural water district is a quasi-municipal corporation, K.S.A. 82a-616(a), it has no authority to levy any tax, or to certify a levy to a municipality. K.S.A. 1982 Supp. 82a-615 and 82a-619(d). Therefore, in our judgment, a rural water district is not a "political subdivision," as said term is defined in K.S.A. 1982 Supp. 79-3602(n), and is not within the exemption from retailers' sales tax prescribed by subsection (b) of K.S.A. 79-3606.

Although what has been said above is dispositive of the question presented, we are impelled to address your contention that a rural water district is a "quasi-municipal corporation," as

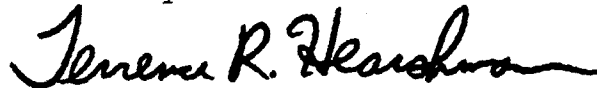
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said term is defined in subsection (p) of K.S.A. 1982 Supp. 79-3602. Although such contention may be valid, it is, in our opinion, irrelevant in construing the exemption prescribed by subsection (b) of K.S.A. 79-3606. Said term does not appear in the subject exemption, and it is our opinion that the term "quasi-municipal corporation" is defined in the Kansas Retailers' Sales Tax Act only because said term is used in a tax-imposing statute [K.S.A. 1982 Supp. 79-3603(p)].

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Terrence R. Hearshman  
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RTS:BJS:TRH:jm