



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

February 28, 1986

ATTORNEY GENERAL OPINION NO. 86- 27

Thomas D. Borniger  
Curfman, Harris, Stallings & Snow  
Suite 800, First National Bank Building  
Wichita, Kansas 67202-3391

Re: Waters and Watercourses--Rural Water Districts--  
Construction of Works; Revenue Bonds

Synopsis: K.S.A. 82a-625 provides that revenue bonds issued by a rural water district pursuant to the authority granted therein "shall be exempt from taxation." Kansas state income and inheritance taxes are included in the exemption granted by this statutory language. Cited herein: K.S.A. 32-607; 68-2013; 68-2041; 74-4522; 76-6a22; 82a-625; L. 1957, ch. 450.

\* \* \*

Dear Mr. Borniger:

As general counsel for Rural Water District Nos. 1, 2, 3 and 4 in Sedgwick County, Kansas, you have requested an opinion interpreting K.S.A. 82a-625. That statute, which concerns a rural water district's authority to issue revenue bonds provides:

"The board of directors of any district as provided shall have power to cause to be constructed within such district such works as are authorized by this act and to issue revenue bonds therefor, which shall be exempt from taxation. Such bonds shall be

self-liquidating out of the revenue to be derived by the district for its services and facilities, shall bear interest at not more than the maximum rate of interest prescribed by K.S.A. 10-1009 and shall be issued under such provisions and conditions as the board shall determine." (Emphasis added.)

You raise the following question: "Are revenue bonds issued pursuant to K.S.A. 82a-625 exempt from Kansas state income and inheritance taxes?" It is our opinion that the language of K.S.A. 82a-625 which provides that revenue bonds "shall be exempt from taxation" is sufficiently broad to exempt such bonds from Kansas income and inheritance taxes.

This conclusion is based upon certain fundamental rules of statutory construction; some of which are distinctly applicable to statutes concerning taxes. It is, of course, the primary rule of statutory construction that the intent of the legislature, when it may be ascertained, governs interpretation of statutes. State v. Sexton, 232 Kan. 539 (1983). The specific rule in Kansas concerning tax exemption statutes provides that such statutes are to be strictly construed in favor of imposing a tax and against the allowance of an exemption for one who does not clearly qualify. Director of Taxation v. Kansas Krude Oil Reclaiming Co., 236 Kan. 450, 454 (1984); Board of Park Commr's, City of Wichita v. State ex rel., 212 Kan. 716, 717 (1973). These cases, however, generally concern tax exemption statutes in which a factual question is presented concerning whether an individual or organization qualifies for a particular exemption.

K.S.A. 82a-625 does not raise such factual concerns. It unambiguously provides that revenue bonds issued pursuant to its terms "shall be exempt from taxation." As noted in the Kansas Krude Oil Reclaiming Co. case cited above:

"The rule of strict construction means that ordinary words are to be given their ordinary meaning. Such a statute should not be so read as to add that which is not readily found therein or to read out what as a matter of ordinary English language is in it. (citations omitted)." 236 Kan. at 455.

Utilizing these guidelines, we can only conclude that "as a matter of ordinary English" K.S.A. 82a-625 means exactly what it says, i.e. revenue bonds issued pursuant to its authority are "exempt from taxation." The term "taxation" in this case is not limited by the terms or context of the statute. We cannot reasonably infer from

terms or context of the statute. We cannot reasonably infer from the "ordinary" words used any intention on the part of the legislature to restrict the scope of the exemption to exclude income and inheritance taxes.

The word "exempt" has a plain and common meaning which, when applied to taxation, means "freedom from the burden of enforced contributions to the expense and maintenance of government, or an immunity from a general tax." See William Clairmont, Inc. v. State, 261 N.W. 2d 780, 784 (N.D.2d 1978); Kroger Co. v. Schneider, 223 N.E.2d 606, 610 (Ohio 1977).

Similarly, the term "taxation", as used in K.S.A. 82a-625, must be understood in its ordinary sense to refer generally to the imposition of charges or contributions in a system designed to raise the revenue necessary to support government. In this general sense the term certainly includes the imposition of income and inheritance taxes. To read the term in more limited sense would require us to presume a legislative intent which is not evidenced by the unambiguous language of K.S.A. 82a-625.

The legislature has chosen to grant a more limited tax exemption for other bonds issued under Kansas statutes. In those instances the statutory language employed clearly states the scope of the exemption and specifies its limitations, e.g., K.S.A. 76-6a22 (revenue bonds issued by colleges and universities.); K.S.A. 74-4522 (state parks); K.S.A. 68-2013 and 68-2041 (Kansas Turnpike and highway bonds); K.S.A. 32-607 (state fish hatchery revenue bonds). We note that K.S.A. 42-388b employs language similar to K.S.A. 82a-625 in declaring bonds issued by certain irrigation districts to be "tax-exempt." Our research on this statute does not reveal any interpretation of K.S.A. 42-388b contrary to the conclusions we have reached regarding K.S.A. 82a-625.

It is clear from the statutes cited above that if the legislature intended to limit the scope of the tax exemption granted to bonds it could so provide in specific and unambiguous terms. In the case of K.S.A. 82a-625, the legislature did not choose to employ such language, providing instead for an exemption in a general sense by stating that the bonds shall be exempt from taxation. Under these circumstances, and given the rules of construction which control here, we can only conclude that the words "exempt from taxation" as used in K.S.A. 82a-625 include Kansas state income and inheritance taxes. Thus, in our opinion, bonds issued pursuant to the statute are exempt from Kansas state income and inheritance taxes.

We note that this language has appeared unchanged in the statute since its enactment in 1957. The 1957 bill providing for the establishment and powers of rural water districts also contained the following preamble declaring the purpose of the legislation.

"WHEREAS, It is recognized that the wastage and inadequate utilization of water resources within this state resulting from inadequate facilities for water storage, transportation and utilization contribute to: The destruction of natural resources, injuries to public health and lands, droughts, periodic floods, crop failures, decline in standards of living, and excessive dependence upon public relief, and thereby menace the welfare of the citizens of the state of Kansas; and

"WHEREAS, The 83rd congress of the United States of America has recognized that the wastage and inadequate utilization of said water resources on a national level have a similar undesirable effect on the national public health, economy and welfare and therefore enacted public law 597, which authorized the United States secretary of agriculture to: Enter into agreements with state agencies and private persons; furnish financial or other aid and assistance; and, insure loans for the purpose of encouraging various water conserving, utilization and drainage facility improvement projects: Now, therefore," L. 1957, ch. 450.

As the preamble makes clear, the legislation is designed to accomplish a public purpose and to further the public welfare. The revenue bonds provided for by K.S.A. 82a-625 are a source of revenue for the legislature's plan to remedy the problems discussed in the preamble to the act. Obviously, the exemption of the bonds from state taxation will make the bonds more marketable and promote the realization of this plan. The Kansas supreme court has approved a similar exemption for revenue bonds issued by the state board of regents. See State, ex rel. v. Board of Regents, 167 Kan. 587, 596-597 (1949).

It is our opinion therefore, that K.S.A. 82a-625 provides that revenue bonds issued pursuant to its terms are exempt from Kansas income and inheritance taxes.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Mary F. Carson  
Assistant Attorney General

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