

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Corporation Tax
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A question has arisen as to whether bonds of particular New York State public authorities or the interest on such bonds is exempt from New York State corporate franchise taxation.

Title 8-A of Article 5 of the Public Authorities Law, "The New York State Local Water and Sewer Authority Act" (the Act), authorizes the creation of local water and sewer authorities.

Subdivision 3 of such section 1196-1 provides in relevant part as follows:

"3. Any bonds issued pursuant to this title together with the income therefrom as well as the revenues, moneys and all other property and activities of an authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes, except for transfer and estate taxes

The question as to whether the bonds or the interest on the bonds issued under the Act is exempt from the corporate franchise taxes stems from the enumeration of "franchise taxes" in the examples that follow the statutory language which lays down the general tax exemption rule. We have concluded that the term "franchise taxes" refers to and modifies the exemption from taxation of activities of the Authority but not the bonds or the interest from the bonds of the Authority.

¹The same language is found in the specific enabling acts relating to the following local authorities created by the following sections of the Public Authorities Law: Green Island Power Authority, § 1020-m; New York City Municipal Water Finance Authority, § 1045-u; Buffalo Municipal Water Finance Authority, § 1048-u; Albany Municipal Water Finance Authority, § 1115-t; Town of Clifton Park Water Authority, § 1120-n; Water Authority of Great Neck North, § 1197-m; Water Authority of Western Nassau County, § 1198-n; Rensselaer County Water and Sewer Authority, § 1199-n; Wayne County Water Authority, § 1199-nn; Orange County Water Authority, § 1199-oo; Saratoga County Water Authority, § 1199-nnn; Greater Utica Area Water Finance Authority, § 1226-m.

Therefore, the bonds and the interest on the bonds is to be treated as follows.

Article 9

The interest income on the public authority bonds is included in gross earnings for purposes of the taxes imposed by sections 184, 184-a, 186 and 186-b of the Tax Law.

Article 9-A

The interest income on such bonds is included in entire net income pursuant to Tax law, § 208.9(b)(2). The bonds are included in business capital as defined in Tax Law, § 208.7 or investment capital as defined in Tax Law, § 208.5, as the case may be.

Article 32

The interest income on such bonds is included in entire net income pursuant to Tax Law, § 1453(b)(1). This memorandum makes no determination as to whether the interest income on such bonds qualifies for the deduction in determining entire net income set forth in Tax Law, § 1453(e)(12). Such bonds are included in the computation of taxable assets pursuant to Tax law, § 1455(b)(1).

Article 33

The interest income on such bonds is included in entire net income pursuant to Tax Law, § 1503(b)(2)(B) and the bonds are business capital as defined in Tax Law, § 1500(j) or investment capital as defined in Tax Law, § 1500(i), as the case may be.