

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

TSB-A-93 (1)S
Sales Tax
January 5, 1993

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920921B

On September 21, 1992, a Petition for Advisory Opinion was received from Brookhaven Town Fire District Officers Association, 32 General McLean Drive, Bellport, New York 11713.

The issue raised by Petitioner, Brookhaven Town Fire District Officers Association, is whether its purchases of tangible personal property and services are exempt from State and local sales and use taxes.

Petitioner is comprised of all the fire districts which are located in the Town of Brookhaven, County of Suffolk, New York. These same fire districts also belong to the Association of Fire Districts of the State of New York. Petitioner's income is derived solely from dues which is paid from tax monies from the various Brookhaven Town Fire Districts.

Section 1116 of the Tax Law provides, in part, as follows:

Sec. 1116. Exempt organizations.--(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

(1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is vendor of services of property of a kind not ordinarily sold by private persons: ...

Section 170(1) of the Town Law provide, in part, as follows:

§170. Establishment and extension of fire, fire alarm and fire protection districts.

1. The town board of any town or, if the proposed district or extension includes territory in more than one town, the town boards of each of the towns in which such proposed district or extension is situated, acting jointly by a majority vote of the members of each of such town boards, upon a written petition as hereinafter provided, may establish or extend fire districts, fire alarm districts and fire protection districts in said town or towns; ...

Section 174(7) of the Town Law provides, in part, that "a fire district is a political subdivision of the state ...".

Section 178-b of the Town Law provides as follows:

§178-b. Expenses of the association of fire districts of the state of New York

The board of fire commissioners of any fire district may determine to expend and raise by taxation annually such sums as may be required toward defraying the actual and necessary expenses of maintaining and continuing the association of fire districts of the state of New York, and any of its activities in this state for the purpose of devising practical ways and means of obtaining greater economy and efficiency in the administration of fire district affairs.

The board of fire commissioners of any fire district may determine to expend and raise by taxation annually such sums as may be required to defray the proportionate share of such fire district to meet the actual and necessary expenses of maintaining and continuing (1) the county association of fire districts or the county association of fire district officers of the fire districts in a county in which all or part of such fire district is located and (2) a regional association of fire districts or a regional association of fire district officers of the fire districts located in an area of adjoining counties, and to maintain and continue any of the activities of any such association, for the purposes of obtaining greater economy and efficiency in the administration of fire district affairs. (emphasis added)

In Opinion of Counsel of the Department of Taxation and Finance, June 16, 1972, Counsel after citing Sections 170(1), 174(6) [now 174(7)] and 178-b of the Town Law stated, in part, as follows:

I am of the opinion, therefore, that the Association of Fire Districts of the State of New York is an instrumentality of the State of New York, within the meaning of section 1116(a)(1) of the Tax Law, recognized by the Legislature as such.

* * *

Accordingly, I am of the opinion that the Association of Fire Districts of the State of New York, is exempt from New York State and local sales and use taxes, as provided in section 1116(a)(1) of the Tax Law.

Section 178-b of the Town Law, which makes reference to the Association of Fire Districts of the State of New York, also makes a similar reference to organizations such as the Petitioner.

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Therefore in accordance with Sections 170(1), 174(7) and 178-b of the Town Law and Opinion of Counsel, June 16, 1972, supra, Petitioner is an instrumentality of the State of New York. Accordingly, pursuant to Section 1116(a)(1) of the Tax Law Petitioner's purchases of tangible personal property and services are exempt from State and local sales and use taxes.

DATED: January 5, 1993

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth therein.