

# OFFICE OF THE ATTORNEY GENERAL

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Honorable F. R. Albritton, Jr.  
Chairman, Wilcox County Commission  
P. O. Box 488  
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Wallace-Cater Acts -- Industrial Develop-  
ment -- Sales Tax -- Exemptions

Industrial Development Boards organized under the Wallace-Cater Acts are entitled to an exemption from all sales taxes provided the property is purchased by the board or its agent, the purchases are made in the name of the board, the board's credit is obligated, and the purchases are paid for with funds belonging to the board.

Dear Mr. Albritton:

Reference is made to your letter of December 16, 1982, in which you ask the opinion of this office as to whether "State Sales Tax is exempt under the Wallace-Cater Act and under what conditions", and also "if County Sales Tax would be exempt under the Wallace-Cater Acts."

The Department of Revenue has issued a Sales and Use Tax Rule concerning the sales and use tax exemption that accrues to industrial development boards organized under the Cater Act, Code of Alabama 1975, §§ 11-54-80 to -101. This rule is numbered G27-916, and states as follows:

An industrial development board created by an incorporated municipality within the State of Alabama under the Cater Act, § 11-54-80/101, Code of Alabama 1975 as amended, would be exempt from sales and/or use tax on any tangible personal property purchased by the board or its duly authorized agent provided the purchases are made in the name of the board, the board's credit is obligated and said purchases are paid for by the board with funds belonging to the board. The term "funds

belonging to the board" shall normally be construed to mean those funds not exceeding the amount of the long term revenue bonds and any temporary borrowing evidenced by revenue bonds or notes maturing not later than 18 months from date of issue.

This rule has been upheld by the Alabama Supreme Court in the case of Champion International Corp. v. State, 405 So.2d 928 (Ala. 1979). The Court stated in Champion that:

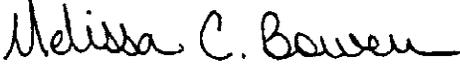
This statutory provision [Code of Alabama 1975, § 11-54-96] does not specifically mention sales and use taxes, but the Department of Revenue, through the issuance of Rule G27-916, has interpreted the tax exemption provision to apply to sales and use taxes on purchases by industrial development boards, provided certain conditions are met.

405 So.2d at 935. The Court went on to hold that Champion, and the board under whose authority its plant was built, did not qualify for the tax exemption since they did not comply with the requirements of Sales and Use Tax Rule G27-916. Champion, therefore, would require a board to strictly comply with Rule G27-916 in order to avail itself of an exemption from sales and use tax.

I trust the above is sufficient to answer your questions.

Sincerely,

CHARLES A. GRADDICK  
Attorney General  
By-

  
Melissa C. Bowen  
Assistant Attorney General

MCB:ccc