

OFFICE OF THE ATTORNEY GENERAL ⁹¹⁻⁰⁰¹⁹⁴



JIMMY EVANS
ATTORNEY GENERAL
STATE OF ALABAMA

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY ALABAMA 36130
AREA (205) 242-7300

Honorable Larry D. Dixon
Member, State Senate
District No. 25
820 East Fairview Avenue
Montgomery, AL 36106

Hospitals - Taxes - Licenses
and Permits - Fees

1. Pursuant to Code of Alabama 1975, § 11-95-11, public hospitals incorporated under Code of Alabama 1975, § 11-95-1, et seq., are exempt from all county, municipal and local taxes.
2. Public hospitals incorporated under Code of Alabama 1975, § 11-95-1, et seq., are exempt from excise taxes levied by any county, municipality or other political subdivision of state in respect of privilege of engaging in any of activities in which such corporation may engage.

Said corporations are further exempt from paying any fees to judge of probate of any county in respect of its incorporation, amendment of its certificate of incorporation or recording of any document.

3. Pursuant to Code of Alabama 1975, § 22-21-333, authorities, as that term is defined in § 22-21-311(a)(2), are exempt from taxation to full extent set forth in § 22-21-333.

Dear Senator Dixon:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION 1

Pursuant to Code of Alabama 1975, § 11-95-11, are public hospitals exempt from all county, municipal and local taxes?

FACTS AND ANALYSIS

Chapter 95 of Title 11 contains provisions governing public hospital facilities.

Section 11-95-11, to which you make reference, provides as follows:

"The property and income of a corporation, all bonds issued by a corporation, the income from such bonds, conveyances by or to a corporation, and leases, mortgages and deeds of trust or trust indentures by or to a corporation shall be exempt from all taxation in the state of Alabama. A corporation shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which a corporation may engage. A corporation shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of

any county in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document."

Section 11-95-2(9) defines a corporation as "any public corporation organized pursuant to the provisions of this chapter."

In light of the language of § 11-95-11, supra, it is the opinion of this office that public hospitals incorporated pursuant to Code of Alabama 1975, § 11-95-1, et seq., are exempt from all county, municipal and local taxes.

CONCLUSION

Pursuant to Code of Alabama 1975, § 11-95-11, public hospitals incorporated pursuant to Code of Alabama 1975, § 11-95-1, et seq., are exempt from all county, municipal and local taxes with respect to the purposes of their incorporation.

QUESTION 2

Are public hospitals also exempt from all county, municipal and local licensing fees and excise taxes?

FACTS AND ANALYSIS

Code of Alabama 1975, § 11-95-11, supra, states that "[a] corporation shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document."

Additionally, said statute provides that such corporations shall be exempt from all taxes levied by any county, municipality, or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which a corporation may engage.

Based upon the foregoing language, it is the opinion of this office that public hospitals incorporated under § 11-95-1, et seq., are exempt from excise taxes levied by any county, municipality or other political subdivision of the state with respect to the purposes of their incorporation.

It is further our opinion that such corporations are exempt from paying any fees to the judge of probate of any court in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document.

CONCLUSION

Public hospitals incorporated under Code of Alabama 1975, § 11-95-1, et seq., are exempt from excise taxes levied by any county, municipality or other political subdivision of the state with respect to the purposes of their incorporation.

Said corporations are further exempt from paying any fees to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document.

QUESTION 3

Pursuant to Code of Alabama 1975, § 22-21-333, are public hospitals exempt from all taxation without limitation to license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which a public hospital may engage?

FACTS AND ANALYSIS

Code of Alabama 1975, § 22-21-310, et seq., is the Health Care Authorities Act of 1982.

Section 22-21-333, to which you make reference, provides as follows:

"All properties of an authority, whether real, personal or mixed, and the income therefrom, all securities issued by

an authority and the coupons applicable thereto and the income therefrom, and all indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of this article and all revenues derived from any such leases, and all deeds and other documents executed by or delivered to an authority shall be exempt from any and all taxation by the state, or by any county, municipality or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which an authority may engage. An authority shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation or the recording of any document. Further, the gross proceeds of the sale of any property used in the construction and equipment of any health care facilities for an authority, regardless of whether such sale is to such authority or any contractor or agent thereof, shall be exempt from the sales tax imposed by article 1 of chapter 23 of Title 40 and from all other sales and similar excise taxes now or hereafter levied on or with respect to the gross proceeds of any such sale by the state or any county, municipality or other political subdivision or instrumentality of any thereof; and any property used in the construction and equipment of any health care facilities for an authority, regardless of whether such property has been purchased by the authority or any contractor or agent thereof, shall be exempt from the use tax imposed by article 2 of chapter 23 of Title 40 and all other use and similar excise taxes now or hereafter levied on or with respect to any such property by the state or any county, municipality or other political subdivision or instrumentality of any thereof."

The term "authority" is defined in § 22-21-311(a)(2) as "[a] public corporation organized, and any public hospital corporation reincorporated, pursuant to the provisions hereof."

Additionally, § 22-21-311(a)(20) defines a public hospital corporation as follows:

"Any public authority, public corporation or public association or entity organized on a local or regional basis by or with the consent of any county or municipality (or any two or more thereof) and having the power to own or operate any health care facilities, including (without limitation) any public corporation or authority heretofore or hereafter organized under the provisions of article 3, division 1 of article 4, article 5, or article 6 of this chapter, section 22-21-5, or chapter 95 of Title 11, but excluding the state, any state institution of higher learning owning or operating health care facilities or any other state (as distinguished from local or regional) agency owning or operating health care facilities."

Based upon our review of the foregoing statutes, it is the opinion of this office that under Code of Alabama 1975, § 22-21-333, all properties of a health care authority, as that term is defined in § 22-21-311(a)(2), including real, personal or mixed and the income therefrom, all securities issued by an authority and the coupons applicable thereto and the income therefrom, and all indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of Article 11 of Chapter 21 of Title 22 and all revenues derived from such leases, and all deeds and other documents executed by or delivered to an authority are exempt from all taxation by the state or by any county, municipality or other political subdivision of the state.

Such authorities are also exempt from paying any taxes to any judge of probate in respect of the authority's incorporation, the amendment of its certificate of incorporation or the recording of any document.

Section 22-21-333 further provides that the gross proceeds of the sale of any property used in the construction and equipment of any health care facilities for an authority shall be exempt from the sales tax imposed by Article 1 of Chapter 23 of Title 40 and from all other sales and similar excise taxes levied on or with respect to the gross proceeds of any such sale by the state or any county, municipality or other political subdivision or instrumentality of any thereof.

Additionally, § 22-21-333 exempts any property used in the construction and equipment of any health care facilities for an authority from the use tax imposed by Article 2 of Chapter 23 of Title 40 and all other use or similar excise taxes levied on or with respect to any such property by the state or any county, municipality or other political subdivision or instrumentality of any thereof.

CONCLUSION

Under Code of Alabama 1975, § 22-21-333, all properties of a health care authority, as that term is defined in § 22-21-311(a)(2), including real, personal or mixed and the income therefrom, all securities issued by an authority and the coupons applicable thereto and the income therefrom, and all indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of Article 11 of Chapter 21 of Title 22 and all revenues derived from such leases, and all deeds and other documents executed by or delivered to an authority are exempt from all taxation by the state or by any county, municipality or other political subdivision of the state.

Such authorities are also exempt from paying any taxes to any judge of probate in respect of the authority's incorporation, the amendment of its certificate of incorporation or the recording of any document.

Section 22-21-333 further provides that the gross proceeds of the sale of any property used in the construction and equipment of any health care facilities for an authority shall be exempt from the sales tax imposed by Article 1 of Chapter 23 of Title 40 and from all other sales and similar excise taxes levied on or with respect to the gross proceeds of any such sale by the state or any county, municipality or other political subdivision or instrumentality of any thereof.

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Additionally, § 22-21-333 exempts any property used in the construction and equipment of any health care facilities for an authority from the use tax imposed by Article 2 of Chapter 23 of Title 40 and all other use or similar excise taxes levied on or with respect to any such property by the state or any county, municipality or other political subdivision or instrumentality of any thereof.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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