

OFFICE OF THE ATTORNEY GENERAL



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Honorable Sarah Hamrick
Secretary/Treasurer
Sand Mountain Water Authority
P. O. Box 67
Iber, AL 35981

Water Authority - Sales Tax -
Use Tax - Exemptions

An authority organized under the provisions of §§ 11-88-1, et seq., Code of Alabama 1975, is exempt from all taxation in the State of Alabama, including sales and use taxes.

Dear Ms. Hamrick:

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

QUESTION

You have requested an opinion concerning whether the Sand Mountain Water Authority is exempt from sales and use taxes in the State of Alabama. In the resolution requesting an attorney general's opinion, you stated that the Sand Mountain Water Authority is incorporated pursuant to the provisions of Chapter 88 of Title 11, Code of Alabama 1975.

FACTS AND ANALYSIS

The Sand Mountain Water Authority is incorporated pursuant to the provisions of §§ 11-88-1, et seq., Code of Alabama 1975, which authorizes the creation of a public corporation to render water service, sewer service and fire protection services or any one of such services within a specific area not otherwise serviced by a public water system. See § 11-88-3.

Section 11-88-16 provides in pertinent part that:

"The authority, the property and income of the authority . . . shall be exempt from all taxation in the State of Alabama. . . ."

The above statutory exemption from taxation grants a broad exemption from all taxation.

Other statutory exemptions for public corporations, such as the one found at § 11-50-322, exempts "the property and income" of such public corporation from tax. The language found in § 11-50-322 does not provide a broad exemption from all taxation to the public corporation. The public corporation's property and income is exempt from ad valorem tax and income tax, but it is not exempt from other forms of taxation. See generally, Town of Mulga v. Town of Maytown, 502 So.2d 731 (Ala. 1987).

It is well settled that in construing a statute, courts are under a duty to ascertain and give effect to the legislative intent as expressed by the words of the statute. Ex parte Kimberly-Clark Corp., 503 So.2d 304 (Ala. 1987). The language used by the Legislature in § 11-88-16 clearly indicates that the Legislature intended to exempt an authority created under §§ 11-88-1, et seq., from all taxation instead of limiting the exemption to ad valorem and income taxes, as was done in § 11-50-322.

CONCLUSION

Accordingly, an authority organized under the provisions of §§ 11-88-1, et seq., Code of Alabama 1975, is exempt from all taxation in the State of Alabama, including sales and use taxes.

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I hope this sufficiently answers your question. If our office can be of further assistance, please contact J. Wade Hope, Legal Division, Department of Revenue.

Sincerely,

JEFF SESSIONS
Attorney General

By:

A handwritten signature in cursive script, appearing to read "James R. Solomon, Jr.", written in dark ink.

JAMES R. SOLOMON, JR.
Chief, Opinions Division

JS/JWH/pj104
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