



2009-043

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

TROY KING  
ATTORNEY GENERAL

February 11, 2009

500 DEXTER AVENUE  
MONTGOMERY, AL 36130  
(334) 242-7300  
WWW.AGO.STATE.AL.US

Honorable Nancy C. Pack  
Director, Tuscaloosa Public Library  
1801 Jack Warner Parkway  
Tuscaloosa, Alabama 35401

Libraries – Library Boards – Sales  
Tax – Exemptions – Municipalities –  
Tuscaloosa County

The Tuscaloosa Public Library is  
exempt from the payment of sales  
taxes under the exemption found in  
section 40-23-4(a)(11) of the Code  
of Alabama.

Dear Dr. Pack:

This opinion of the Attorney General is issued in response to your  
request.

QUESTION

Is the Tuscaloosa Public Library exempt  
from the payment of sales taxes under the  
exemption found in section 40-23-4(a)(11) of the  
Code of Alabama?

FACTS AND ANALYSIS

Section 40-23-4 of the Code of Alabama sets forth numerous  
exemptions from the payment of sales taxes and specifically exempts  
“[t]he gross proceeds of sales of tangible personal property to the State of  
Alabama, to the counties within the state and to incorporated municipali-  
ties of the State of Alabama.” ALA. CODE § 40-23-4(a)(11) (2003). This  
section exempts counties and municipalities and the departments and  
agencies thereof from the payment of sales taxes for purchases of tangible

personal property. Thus, the question is whether the Tuscaloosa Public Library is considered an agency or department of the city or county.

The Tuscaloosa Public Library was established pursuant to the provisions of sections 11-90-1 through 11-90-4 of the Code of Alabama, which authorizes the creation and maintenance of free public libraries by county commissions and municipalities. ALA. CODE §§ 11-90-1 to 11-90-4 (1994). You have informed this Office that the Tuscaloosa Public Library was specifically established as a joint library service by the City of Tuscaloosa, the City of Northport, and Tuscaloosa County under section 11-90-4 of the Code of Alabama.

Section 11-90-4 of the Code states as follows:

In lieu of establishing or maintaining free public libraries exclusively for a single county or municipality in the manner provided in this chapter, the library board of any county or municipality free public library may contract, in behalf of the political unit represented by such local library board, to and with the library board of another political unit or governmental agency or instrumentality with respect to the establishment or maintenance of joint library service upon such terms as may be agreed upon by the several contracting parties. *Where there is no existing public library, the power thus to contract shall vest in the county commission of the county or the governing body of the municipality.* Included in the power conferred is the determination of the basis and personnel of representation of the local political units on the joint library board administering the joint library service established under this section. *Such board, when appointed, shall have the powers and duties granted by this chapter to county or municipal library boards.* County and municipal library boards or joint library boards shall have the power to cooperate with all state and federal agencies and institutions in furtherance of the purpose of this chapter, and all municipal, county and joint library boards shall from time to time submit such records and reports as may be required by the

public library service; provided, that nothing in this section shall be so construed as to infringe upon any municipal charter provisions governing the administration of existing free public libraries.

ALA. CODE § 11-90-4 (1994) (emphasis added).

This section authorizes the creation of a joint library board and allows each political unit creating the board to determine the representation on the board. The joint board is granted the power to govern and supervise the library as set forth in section 11-90-3 of the Code. The board is specifically granted the authority to control the expenditure of all funds received or appropriated for the library. ALA. CODE § 11-90-3 (1994). Members of the Tuscaloosa Library Board are appointed in accordance with local Act 98-566, which authorizes Tuscaloosa County and the City of Tuscaloosa to each appoint five members to the board and authorizes the City of Northport to appoint one member for a total of 11 members. 1998 Ala. Acts No. 98-566, 1269.

The library board is not separately incorporated. This Office has previously stated that a free public library created under sections 11-90-1 through 11-90-4 of the Code is not a legal entity separate from the local governmental entity or entities that authorize the creation of the library, but rather an instrumentality of the local government. Opinions to Honorable Rebecca S. Mitchell, Director, Alabama Public Library Service, dated March 29, 2002, A.G. No. 2002-195 and to Honorable Jean Hester, Board Chairman, Millbrook Public Library, dated July 30, 1981, A.G. No. 81-00483.

Because the Tuscaloosa Public Library is not a legal entity separate from the county and cities that created it, but is considered an agency or instrumentality of the county and cities, the library is exempt from the payment of sales taxes under section 40-23-4(a)(11) of the Code of Alabama.

#### CONCLUSION

The Tuscaloosa Public Library is exempt from the payment of sales taxes under the exemption found in section 40-23-4(a)(11) of the Code of Alabama.

Honorable Nancy C. Pack  
Page 4

I hope this opinion answers your question. If this Office can be of further assistance, please contact me.

Sincerely,

TROY KING  
Attorney General  
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH  
Chief, Opinions Division

TK/BFS

738640/128624