

## OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

JUL 8 1985

JAMES R. SOLOMON, JR.  
DEPUTY ATTORNEY GENERAL

H. WARD McMILLAN, JR.  
EXECUTIVE ASSISTANT  
TO THE ATTORNEY GENERAL

WALTER S. TURNER  
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES  
ADMINISTRATIVE ASSISTANT

ADMINISTRATIVE BUILDING  
64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130

AREA (205) 261-3350

B. FRANK LOEB

RON BOWDEN

JOHN J. BRECKENRIDGE

CHARLES E. CRUMBLY

MARK D. GRIFFIN

ADOLPH J. DEAN, JR.

J. WADE HOPE

ASSISTANT ATTORNEYS GENERAL  
REVENUE DEPARTMENT

Honorable William B. Duncan, Chairman  
Lauderdale County Commission  
P. O. Box 1059  
Florence, AL 35631

Counties - Taxation - Sales and  
Use Tax - Economic Development

In order to parallel the state sales and use tax, an additional sales and use tax authorized for a county must include both a sales and use tax levy. A county authorized to levy an additional one percent sales and use tax may levy a one-half percent sales and use tax and limit such tax for a fixed period of time.

Dear Judge Duncan:

Thank you for your recent letter to Attorney General Charles Graddick requesting an opinion concerning Act 85-461 which authorizes Lauderdale County to join with Colbert County to establish a Shoals Industrial Development Authority.

Prior to the proposed constitutional amendment being presented to the majority of voters in your county for approval, you have asked for advice concerning the following questions:

1. Can the counties impose a one cent sales tax and not impose a use tax?
2. Can the counties impose a one-half cent sales and use tax instead of a one cent tax?
3. Can the counties impose a sales and use tax for a fixed period of time, for example,

five years, at which time the collection of said taxes would cease?

The State Legislature at its 1985 Regular Session passed Acts 85-460 and 85-461 relating to Colbert and Lauderdale Counties respectively. Each proposed Constitutional Amendment is dependent upon the other and neither can become law unless both are approved by a majority of the voters of each county.

In imposing the additional one per cent tax which the Legislature authorized for Lauderdale County in Act 85-461, supra, both a sales tax and a use tax must be levied and approved by the majority of the voters of Lauderdale County. Act 85-461 specifically authorizes the county governing body to levy a sales and use tax and expressly states that the "additional sales and use tax parallel the state sales and use tax in every aspect except for the amount of the levy" and shall be collected in the same manner as are other sales and use taxes in Lauderdale County. Therefore, the answer to your first question is no.

Act 85-461 authorizes an additional one percent sales and use tax for Lauderdale County. This authorization can be interpreted to allow the counties to levy an additional sales and use tax up to but not exceeding one percent. Therefore, if approved by a majority of the voters of both Lauderdale and Colbert Counties, an additional sales and use tax of less than one percent may be levied by the county commissions. The answer to your second question, therefore, is yes.

The Act authorizes the imposition of an additional sales and use tax, but there is nothing to prevent the counties from limiting the tax to a fixed period of time. Therefore, the answer to your third question is yes.

If this office may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By



J. Wade Hope  
Assistant Attorney General

JWH:je