

**Internal Revenue Service**

Department of the Treasury

Number: **200238001**  
Release Date: 9/20/2002  
Index Numbers: 103.02-02, 3306.03-01

Washington, DC 20224

Person to Contact:

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(202) 622-3980  
Refer Reply To:  
CC:TE/GE:EOEG:TEB-PLR-156422-01  
Date:  
April 15, 2002

Legend:

- State =
- District =
- Court =
- County =

Dear

This is in response to your request for a ruling that the District is a political subdivision of the State, that the District's income is excluded from gross income, and that the salaries and wages of the District's employees are exempt from federal unemployment tax.

Facts:

The District is established under State law to provide fire protection services to the businesses and residences located within its established boundaries. Its operations are financed by property tax revenue on businesses and residents located within its boundaries. In the event of a dissolution any assets of the District are assumed by the County. The District's affairs are governed by a board of consisting of elected and appointed by the County an elected official of the County. of the elected are of the District elected by the of the District. The other elected are property owners who reside in the District, are elected by residents of the District, and are not . A member of the District's board of may be removed for cause under procedures established by State law. The District has paid employees on its staff.

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The District is authorized by State law to collect a tax for fire and emergency services not to exceed ten cents per one hundred dollars of assessed value. At no time may the total taxes levied exceed this amount. The County clerk adds the levy to the tax bill of the affected property owners. The sheriff may collect and remit the tax to the fire district if necessary. If the sheriff is unable to collect the tax, he may force a sale of the property to pay the tax.

Law and Analysis:

In general, if income is earned by an enterprise that is an integral part of either a state or a political subdivision of a state, that income is not taxable in the absence of specific statutory authorization to tax that income. See Rev. Rul. 87-2, 1987-1 C.B. 18; GCM 14407, C.B. XIV-1, 103 (1935), superseded by Rev. Rul. 71-131, 1971-1 C.B. 28.

The Internal Revenue Code does not define the term "political subdivision." However, § 1.103-1(b) of the Income Tax Regulations provides that the term "political subdivision" denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any state or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of these units. Rev. Rul. 78-276, 1978-2 C.B. 256, states that the term "political subdivision" has been defined consistently for all federal tax purposes as denoting either (1) a division of a state or local government that is a municipal corporation, or (2) a division of such state or local government that has been delegated the right to exercise sovereign power.

In determining whether an entity is a division of a state or local governmental unit, important considerations are the extent the entity is (1) controlled by the state or local government unit, and (2) motivated by a wholly public purpose. See Revenue Ruling 83-131, 1983-2 C.B. 184.

Three generally acknowledged sovereign powers of states are the power to tax, the power of eminent domain, and the police power. See *Estate of Shambert*, 3 T.C. 131 (1944), acq., 1945 C.B.6, aff'd, 144 F.2d 998 (2d Cir. 1944), cert. denied, 323 U.S. 792 (1945). It is not necessary that all three of these powers be delegated in order to treat an entity as a political subdivision for purposes of the Code. However, possession of only an insubstantial amount of any or all of the sovereign powers is not sufficient. All of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by a government. See Revenue Ruling 77-164, 1977-1 C.B. 20.

Section 3301 of the Code imposes an excise tax on every employer, as defined in § 3306(a), for purposes of the Federal Unemployment Tax Act. Under § 3306(c)(7),

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service performed in the employ of a state or political subdivision thereof is exempt from unemployment tax.

The District is formed pursuant to State law and has a substantial sovereign power, the right to levy a tax on property located within its boundaries. The County sheriff has the power to collect the unpaid tax by forcing a sale of the taxed property. The District's power to tax is substantial. The District also performs a governmental function by providing fire protection and emergency services. Finally, at least five members of the Board of Trustees are subject to the control of either the County Judge/Executive, an elected official of the County, or the control of the property owners of the District. Based on these facts, the District is a political subdivision of the State. Accordingly, employees of the District are considered employees of a political subdivision of a State or local governmental unit.

HOLDING:

Based on the above representations, we conclude that, for federal income tax purposes, the District is political subdivision of a State or local governmental unit. The District is not required to file federal income tax returns or pay federal income tax on its income. Salaries and wages paid to District employees are exempt from federal unemployment tax.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative. The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,  
s/Timothy L. Jones  
Timothy L. Jones  
Assistant Branch Chief  
Office of CC:TE/GE:EOEG:TEB

Enclosures (2)