

October 6, 2000
OPINION NUMBER 00-327

Chief H. "Butch" Browning
District Six Fire Department
7878 Prescott Road
Baton Rouge, LA 70812

119 TAXATION - Exemptions, general

33:4510

Statute authorizing charge back of certain taxes made to political subdivisions by a public utility does not authorize a political subdivision to levy and collect payments from public utilities.

Dear Chief Browning:

You requested the opinion of this office concerning R.S. 33:4510, specifically whether under that statute Fire Protection District No. 6 (the "District") has the authority to levy and collect payments from certain public utilities.

R.S. 33:4510 authorizes a public utility, in certain circumstances, to pass on to its customers the cost of payments, including certain taxes, which the public utility pays to political subdivisions, and provides in pertinent part as follows:

A. Whenever any political subdivision of the state of Louisiana ... **shall collect or receive any payment from any public utility** operating within such political subdivision ... whether such payment be called a license, occupational, privilege, franchise, or inspection tax, charge, or fee, or otherwise, **the amount of such tax or payment may**, to the extent that such tax or payment was not included as a part of the cost of furnishing services in the fixing of the rates and charges for such services by the Louisiana Public Service Commission, **be added to the sales price of such public utility's service and billed pro rata to the utility's customers** receiving local service within the political subdivision collecting such taxes or receiving such payments.

B. This Section shall not be construed as granting to any political subdivision any authority to levy any tax, other than such authority as the political subdivision already has under the constitution and statutes of Louisiana.

C. Nothing in this Section shall apply to ad valorem taxes nor to an occupational license tax ...

D. The provisions of this Section shall not apply to any payments by a utility to a political subdivision in excess of five percent of the annual gross receipts of the utility from its customers within said political subdivision, whether said payments are made as a license, occupational, privilege, franchise, or inspection tax, charge, or fee, or by agreement between the utility and the political subdivision. (Emphasis added)

As stated in Paragraph B, this section does not grant to a political subdivision any additional authority to levy a tax. Accordingly, your question must be answered in the negative; R.S. 33:4510 does not authorize the District to levy and collect payments from public utilities that the District is not otherwise authorized to levy and collect.

Trusting this adequately responds to your request, we remain

Yours very truly,

RICHARD P. IEYOUNG
Attorney General

BY:

MARTHA S. HESS
Assistant Attorney General

RPI/MSH

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Syllabus

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Date Received:

Date Released: October 6, 2000

Martha S. Hess
Assistant Attorney General