

Art. V, s. 14, State Const., which prohibits county court judges from receiving commissions other than their state salaries. Aside from the county court judge's salary, however, the reasonable expenses of operating a county court are paid by the county, s. 34.171, *id.*; and, in return, all filing fees collected in county court are remitted monthly to the county. Section 34.041(1), *id.* Notwithstanding this judicial restructuring, however, s. 705.03, *supra*, continues to provide that the county court judge be paid a percentage of the proceeds for his services in connection with the sale of abandoned personal property. In order to give this provision effect, therefore, it would have to be concluded that a nonfee, state-salaried officer who is prohibited from receiving compensation other than his state salary is entitled to a fee for his official services in connection with the sale of abandoned personal property. Such a conclusion would be unreasonable, and it is a fundamental rule of statutory construction that legislative acts should be construed in order to avoid absurd or unreasonable results.

Therefore, and in answer to your inquiry, I am of the opinion that, pending a legislative or judicial clarification, the fee authorized to be paid to the county court judge pursuant to s. 703.05, F. S., should be paid to the clerk of the circuit court, acting as clerk of the county court, to be remitted to the county in which such county court is located, as are the county court filing fees pursuant to s. 34.041(1), *supra*. Such payment would reimburse the county for the payment of county court expenses in connection with the sale of abandoned personal property. See s. 34.171, *supra*.

074-315—October 15, 1974

TAXATION

PUBLIC PROPERTY LEASED TO PRIVATE PARTIES NOT EXEMPT FROM TAXATION

To: Carl E. Duncan, Attorney for Oklawaha Basin Recreation and Water Conservation and Control Authority, Tavares

Prepared by: Sydney H. McKenzie III, Assistant Attorney General

QUESTION:

Would property owned by the Oklawaha Basin Recreation and Water Conservation and Control Authority and leased to private individuals for their private use, reserving to the authority the right to use such portion thereof as may be necessary for authority purposes, be exempt from taxation?

SUMMARY:

Property owned by the Oklawaha Basin Recreation and Water Conservation and Control Authority is immune from ad valorem taxation. When such properties are leased and used for nonexempt purposes, the leasehold interest is subject to ad valorem taxation pursuant to ss. 196.001 and 196.199, F. S.

As discussed below, your question is answered in the negative.

Analysis of your question requires an examination of the taxability of both the fee interest of the authority and the proposed leasehold interest of the private individuals.

As to the fee interest, all property in the state is subject to taxation unless immune or expressly exempted therefrom, *see* s. 196.001, F. S., and AGO 073-257. Property owned by a state or county is in the immune classification. *Park-N-Shop, Inc. v. Sparkman*, 99 So.2d 571 (Fla. 1957). Pursuant to paragraph 1(c) of Rule 12B-1.207, Rules and Regulations of the State of Florida, Department of Revenue, Chapter 12B-1, this has been interpreted to include special taxing districts within the immune classification:

(C) Property owned and used exclusively by the United States, the state, or a political subdivision thereof is immune from taxation. No application for

exemption of this property shall be required. *Park-N-Shop, Inc. v. Sparkman*, 99 So.2d 571 (Fla. 1957)

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2. A political subdivision of this state, shall include the following: special tax districts

The Department of Revenue is charged with the duty of prescribing "reasonable rules and regulations for the assessing of and collecting of taxes." Section 195.042, F. S. Absent a judicial determination to the contrary, the quoted provisions of Rule 12B-1.207, *supra*, constitute a proper exercise of that authority. See 1 Fla. Jur. *Admin. Law* s. 90; AGO 073-437. Therefore, the property of a special taxing district such as the authority would appear to be generally immune from taxation, absent some specific reason to the contrary.

As to the leasehold interests, however, unless the authority lands which are leased to nongovernmental lessees are used for governmental, municipal, or public purposes or functions as defined in subsection (5) of s. 196.012, F. S., or one or more of the exempt uses set forth in subsection (4) of s. 196.199, F. S., such lands may be subject to taxation under s. 196.001, F. S. I have previously held, in AGO 072-277, that when properties owned by immune political subdivisions of the state are leased and used for nonexempt purposes, the leasehold interest is subject to ad valorem taxation pursuant to ss. 196.001 and 196.199. Thus, it would appear that if the lands owned by the authority and leased to the private parties were used by those private parties for nonexempt purposes, they would be subject to taxation. Attorney General Opinion 073-437. The final determination, of course, is a factual determination which is the responsibility of the tax assessor. Section 196.193, F. S.; AGO 074-75.

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MUNICIPAL COURTS

NOT ENTITLED TO FREE SETS OF FLORIDA STATUTES

To: John D. Wessel, City Prosecutor, Boynton Beach

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTION:

Are municipal court judges and city prosecutors entitled to free sets of the Florida Statutes under s. 11.246, F. S.?

SUMMARY:

Municipal court judges and municipal prosecuting attorneys are not entitled to free sets of the Florida Statutes under s. 11.246, F. S.

The statute in question provides that sets of the Florida Statutes shall be furnished free only to the officials specifically designated therein. Among the officials so designated are "judges of the Florida court system" and "the prosecuting officers in the Florida court system and their assistants."

Municipal courts are, in a broad general sense, a part of the court system of this state—at least until 1977 at which time the "phasing out" of these courts must, under s. 20(d)(4) of revised Art. V, State Const., be completed. But they are not a part of our *state* court system for the enforcement of our *state* laws, as contained in our Florida Statutes. Cf. Art. X, s. 12, State Const., providing that in construing the Constitution the terms "judicial office," "justices," and "judges" do not include courts established "solely for the trial of violations of ordinances." And the mere fact that, in enforcing municipal ordinances, municipal courts and prosecutors are a part of the overall court system of this state does not compel the conclusion that they are judges and prosecuting officers of