

• 073-75—March 22, 1973

ANTINEPOTISM LAW

EMPLOYMENT OF RELATIVE OF COUNTY COMMISSIONER BY  
AGENCY PARTLY FUNDED BY COUNTY COMMISSION

To: Jack Faircloth, Clerk, Circuit Court, Bonifay

Prepared by: Halley B. Lewis, Assistant Attorney General

QUESTION:

In a county wherein the county commissioners directly fund 50 percent of the cost of mosquito control and garbage disposal, may a brother of a member of the board of county commissioners be hired by the agency in charge of such work without violating the Antinepotism Law?

SUMMARY:

Section 116.111(2)(a) and (3), F. S., is applicable if the board of county commissioners is vested with, and actually exercises, jurisdiction or control with respect to employment, promotion, or advancement of employees engaged in mosquito control and garbage disposal work.

Section 116.111(2)(a) and (3), F. S., is not applicable if the authority of the board of county commissioners is merely that of approving the budget or approving the appointment or employment made by another official vested by law with the authority to appoint or employ.

Your concern relates to whether or not the Board of County Commissioners of Holmes County is vested with authority to employ or advance employees assigned to mosquito control and garbage disposal work partially funded by, and partially under the supervision of, the board of county commissioners. You state that the board is directly involved in this work and program as it is a part of its budget and partially under its supervision. A determination of this question is essential to proper guidance in the performance of your duties as ex officio auditor of the county in light of the provisions of §116.111(3), F. S.

If the board of county commissioners is vested with, and actually exercises, jurisdiction or control with respect to the employment, promotion, or advancement of employees engaged in such work, §116.111(2)(a) and (3), F. S., is applicable and would direct that such employees so employed who are related to the degree specified shall not be paid.

If the authority of the Board of County Commissioners of Holmes County is merely that of approving the budget or approving the appointment or employment made by another official vested by law with the authority to appoint or employ, then the Antinepotism Law above referred to would not be applicable. See AGO's 070-15 and 071-158.

073-76—March 22, 1973

TAXATION

TAX LIABILITY FOR COSTS OF INSTALLATION OR  
ERECTION OF TANGIBLE PERSONAL PROPERTY

To: Ford S. Hausman, Orange County Tax Assessor, Orlando

Prepared by: William R. Cave, Assistant Attorney General and James D. Whisenand, Legal Intern

**QUESTIONS:**

1. Are installation or erection costs of tangible personal property (machinery, equipment, signs, pipelines, etc.) taxable?
2. If all installation costs are not taxable, what guidelines should be used in establishing when, and under what conditions, they are taxable?

**SUMMARY:**

Installation and erection costs of tangible personal property are to be included in deriving the "just value" of said property when such costs enhance the value of the property within the terms of §193.011, F. S.

Both questions are answered as discussed herein. In deriving "just valuation" a tax assessor must consider all factors listed in §193.011, F. S., *Town of Bay Harbor Island v. Lancelot Associates*, 243 So.2d 437 (3 D.C.A. Fla., 1971). Synonymous with just valuation are such terms as "fair market value" and "full cash value" which indicate the monetary amount a purchaser, willing but not obligated to buy, would pay to one willing but not obligated to sell. *See Walter v. Schuler*, 176 So.2d 81 (Fla. 1965).

The installation or erection costs expressed in your letter reflect pecuniary amounts that an owner invests in the respective property which enhances the value of said property. It is apparent that such costs which are merely an expense, and do not improve the present cash value, the highest and best use, the replacement value, the condition, and the expected net proceeds of the sale of such property, are not to be included in the assessed value. *Overstreet v. Dean*, 219 So.2d 752 (3 D.C.A., Fla., 1969); *State v. Colding*, 200 So.2d 246 (2 D.C.A. Fla., 1967). In essence, the criterion appears to be whether the installation or erection cost enhances the just value of the tangible personal property. *Metropolitan Dade County v. Tropical Park, Inc.*, 231 So.2d 243 (3 D.C.A. Fla., 1970); *Aeronautical Commun. Eq. v. Metropolitan Dade Co.*, 219 So.2d 101 (3 D.C.A. Fla., 1969); *Rodeo Telephone Mem. Corp. v. County of Greeley*, 149 N.W.2d 357 (Neb. 1967); *Bridgeport Gas Company v. Town of Stratford*, 216 A.2d 439 (Conn. 1966).

073-77—March 22, 1973

**TAXATION****TAX COLLECTORS' FEES FOR COLLECTING  
MUNICIPAL TAXES**

*To: Harry F. Knight, Monroe County Tax Collector, Key West*

*Prepared by: William R. Cave, Assistant Attorney General and James D. Whisenand, Legal Intern*

**QUESTION:**

May a tax collector collect fees from, or be compensated by, a municipality for tax collection services rendered said municipality subsequent to the repeal of §167.437, F. S., by Ch. 72-368, Laws of Florida?

**SUMMARY:**

Tax services rendered by a tax collector pursuant to Ch. 167, F. S., subsequent to the repeal of §167.437, F. S., are not to be compensated for by the municipalities. A municipality is not a "taxing district" within the purview of §192.091, F. S. 1971.

**QUESTIONS:**

1. Are installation or erection costs of tangible personal property (machinery, equipment, signs, pipelines, etc.) taxable?
2. If all installation costs are not taxable, what guidelines should be used in establishing when, and under what conditions, they are taxable?

**SUMMARY:**

Installation and erection costs of tangible personal property are to be included in deriving the "just value" of said property when such costs enhance the value of the property within the terms of §193.011, F. S.

Both questions are answered as discussed herein. In deriving "just valuation" a tax assessor must consider all factors listed in §193.011, F. S., *Town of Bay Harbor Island v. Lancelot Associates*, 243 So.2d 437 (3 D.C.A. Fla., 1971). Synonymous with just valuation are such terms as "fair market value" and "full cash value" which indicate the monetary amount a purchaser, willing but not obligated to buy, would pay to one willing but not obligated to sell. *See Walter v. Schuler*, 176 So.2d 81 (Fla. 1965).

The installation or erection costs expressed in your letter reflect pecuniary amounts that an owner invests in the respective property which enhances the value of said property. It is apparent that such costs which are merely an expense, and do not improve the present cash value, the highest and best use, the replacement value, the condition, and the expected net proceeds of the sale of such property, are not to be included in the assessed value. *Overstreet v. Dean*, 219 So.2d 752 (3 D.C.A., Fla., 1969); *State v. Colding*, 200 So.2d 246 (2 D.C.A. Fla., 1967). In essence, the criterion appears to be whether the installation or erection cost enhances the just value of the tangible personal property. *Metropolitan Dade County v. Tropical Park, Inc.*, 231 So.2d 243 (3 D.C.A. Fla., 1970); *Aeronautical Commun. Eq. v. Metropolitan Dade Co.*, 219 So.2d 101 (3 D.C.A. Fla., 1969); *Rodeo Telephone Mem. Corp. v. County of Greeley*, 149 N.W.2d 357 (Neb. 1967); *Bridgeport Gas Company v. Town of Stratford*, 216 A.2d 439 (Conn. 1966).

073-77—March 22, 1973

**TAXATION****TAX COLLECTORS' FEES FOR COLLECTING  
MUNICIPAL TAXES**

*To: Harry F. Knight, Monroe County Tax Collector, Key West*

*Prepared by: William R. Cave, Assistant Attorney General and James D. Whisenand, Legal Intern*

**QUESTION:**

May a tax collector collect fees from, or be compensated by, a municipality for tax collection services rendered said municipality subsequent to the repeal of §167.437, F. S., by Ch. 72-368, Laws of Florida?

**SUMMARY:**

Tax services rendered by a tax collector pursuant to Ch. 167, F. S., subsequent to the repeal of §167.437, F. S., are not to be compensated for by the municipalities. A municipality is not a "taxing district" within the purview of §192.091, F. S. 1971.