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Opinion No. 00-004

Special School District - Waiver of Pro Rata Distribution of Bond Proceeds

QUESTIONS

1. If a county issues general debt service bonds for financing elementary and middle schools only, may a special school district operating within that county refuse to participate in the division of funds generated by said bonds within the boundaries of the special school district?

2. Is a county authorized to levy a property tax for educational purposes on persons owning property located within the borders of a special school district in said county, which is operating a school system (K-12) which is wholly independent of the county school system and the county provides no services, including transportation, within that special school district?

OPINIONS

1. Yes. A special school district may waive its rights to a pro rata share of proceeds from a bond issue for school purposes.

2. Yes. A county is authorized to levy a tax either on all property in the county or on property in the county outside the boundaries of the special school district.

ANALYSIS

Although there are exceptions, generally, counties must provide a pro rata share of school bond proceeds to city school systems and special school districts within the county. *See* Tenn. Code Ann. §9-21-129(a);[1] §49-3-1003(c)(1).[2] The governing body of a special school district, by a regularly adopted resolution, may waive its rights to all or part of its pro rata share and return the funds to the county trustee. Tenn. Code Ann. §9-21-129(b) and §49-3-1003(c)(2).

[1] Bonds or notes issued for school capital outlay purposes.

[2] School bonds.

The county has the authority to tax all property within its boundaries, including property within the special school district. Tenn. Code Ann. §9-21-107(7); §49-2-101(5); §49-3-1005(a) (1999 Supp.). When levying a tax sufficient to pay off bonded indebtedness, a county, in its discretion, may choose to tax only property outside the special school district's boundaries. If it does so, the county does not have to share the school bond proceeds with the special school district. Tenn. Code Ann. §49-3-1005(b) (1999 Supp.).

This opinion is not intended to address or affect any particular bond issue.

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