

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

November 20, 2015

Opinion No. 15-76

Distribution of Proceeds from Local-Option Sales Tax Adopted by City

Question

Under Tenn. Code Ann. § 67-6-712, is the City of Millington School Board entitled to a payment from the City of Millington of one-half of the proceeds from a local-option sales tax adopted by the City?

Opinion

No. Tennessee Code Annotated § 67-6-712 applies only to local-option sales taxes adopted by counties and requires one-half of the proceeds from such a tax to be expended and distributed for school purposes. Because the local-option sales tax at issue is levied by the City of Millington, rather than by Shelby County, the City is not required to distribute one-half of the proceeds from the tax to the City school board.

ANALYSIS

In 2012, the City of Millington adopted a local-option sales tax of 0.5% in addition to the local-option sales tax of 2.25% levied by Shelby County. *See* Local-Option Sales Tax Rates, Tenn. Dept. of Revenue, *available at* www.tn.gov/assets/entities/revenue/attachments/taxlist.pdf. The requestor asks whether Tenn. Code Ann. § 67-6-712 requires the City to distribute one-half of the proceeds from the additional local-option sales tax to the City school board.

Tennessee Code Annotated § 67-6-702 authorizes counties and incorporated cities and towns to levy a local-option sales tax of up to 2.75%. Tenn. Code Ann. § 67-6-702(a)(1). Tennessee Code Annotated § 67-6-703 provides that the levy of a local-option sales tax by a county precludes any city or town within the county from levying such a tax, with the exception that a city or town within such a county “shall at any time have the right to levy the tax at a rate equal to the difference between the county tax and the maximum rate authorized in this chapter.” Tenn. Code Ann. § 67-6-703(a)(1). This provision thus authorized the City of Millington to levy a local-option sales tax of 0.5% in addition to the local-option sales tax of 2.25% levied by Shelby County.

Tennessee Code Annotated § 67-6-712 provides in pertinent part as follows:

(a) *The tax levied by a county under this part shall be distributed as follows:*

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and

(2) The other one-half (½) as follows:

(A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall direct;

(B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;

(C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

Tenn. Code Ann. § 67-6-712(a) (emphasis added).

By its plain terms, Tenn. Code Ann. § 67-6-712(a) applies only to “[t]he tax levied by a county under this part.” *Id.* There is no similar provision for local-option sales taxes levied by municipalities. Accordingly, the requirement that one-half of the proceeds “shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed” applies only to the proceeds from a local-option sales tax levied by a county. The local-option sales tax of 0.5% at issue in your request is levied by the City of Millington, not by Shelby County. Therefore, Tenn. Code Ann. § 67-6-712 does not apply, and the City is not required to distribute one-half of the proceeds from the tax to the City school board.

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