



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 8, 2024

John G. Compton, Esq.
Attorney, Lauderdale County School District
Post Office Box 845
Meridian, Mississippi 39302-0845

Re: Payment of Past Due Taxes

Dear Mr. Compton:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, it was recently discovered that the Lauderdale County Board of Supervisors (“Board of Supervisors”) failed to pay the Lauderdale County School District (“School District”) its share of the privilege taxes, railcar taxes, or rental car taxes.

Questions Presented

1. How many years can the School District seek to be paid?
2. Is there an applicable statute of limitation that would apply to seeking payment of past taxes due the School District from the Board of Supervisors?

Brief Response

While this office cannot make the factual determination that the School District is owed prior year’s taxes, if such determination is made by the local governing authorities, there is no limit on the number of years the School District may seek to be paid because Section 104 of the Mississippi Constitution provides that statutes of limitation shall not run against the State or political subdivisions.

Applicable Law and Discussion

Opinions of this office are limited to prospective questions of state law. Miss. Code Ann. § 7-5-25. This office cannot not validate or invalidate past actions. Therefore, to the extent that your question deals with past action, we must decline to respond with an official opinion, and we offer no opinion on prior payments or the validity or amount of the alleged taxes owed. This opinion should not be interpreted as a determination that taxes are owed by Lauderdale County to the School District. By way of information only, we offer the following.

We understand that the taxes you reference in your request are property carrier and bus taxes, railcar taxes, and motor vehicle rental sales taxes, which are levied or assessed in accordance with Sections 27-19-11, 27-35-501, and 27-65-231 of the Mississippi Code, respectively. The property carrier and bus taxes and motor vehicle rental sales taxes are to be distributed by the county in the same manner as ad valorem tax proceeds. Miss. Code Ann. §§ 27-19-11 and 27-65-231(3). The railcar taxes are apportioned between the municipalities and taxing districts within the county based on the number of miles of railroad within the municipalities taxing districts. Miss. Code Ann. § 27-35-519.

Whether the School District is owed prior years' taxes by the County or the specific number of years the School District may be paid are questions of fact to be made by the local governing authorities, subject to judicial review, and are outside the scope of an official opinion. However, if the local governing authorities do, in fact, determine that the School District is owed prior years' taxes, Section 104 of the Mississippi Constitution provides that "[s]tatutes of limitation in civil causes shall not run against the State, or any subdivision or municipal corporation thereof." See also Miss. Code Ann. § 15-1-51 (stating same). The Mississippi Supreme Court has held that Section 104 applies even in a suit between governmental entities. *Jones Cnty. Sch. Dist. v. Dep't of Revenue*, 111 So. 3d 588, 607 (Miss. 2013). Therefore, if a determination is made that taxes are owed, there is no limit to the number of years the School District can seek to be paid.

We also draw your attention to Section 37-57-108 as discussed in MS AG Op., *Compton* (June 21, 2019) (opining that any amount of delinquent taxes received in the current tax year by the school district that exceeds the increase limitation described in Section 37-57-107 must be deposited into a special account and calculated into the budget for the succeeding fiscal year). You may wish to contact the Technical Assistance Division of the Office of the State Auditor for any questions regarding the applicability of this statute to your situation.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Beebe Garrard

Beebe Garrard
Special Assistant Attorney General