

HALE COUNTY EMERGENCY  
MEDICAL SERVICE  
P.O. Box 398  
Greensboro, AL 36744,

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

Petitioner,

DOCKET NO. MISC. 98-515

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

### FINAL ORDER

The Revenue Department denied a refund of motor fuel excise tax requested by the Hale County Emergency Medical Service (APetitioner@) for the period June 1997 through October 1998. The Petitioner appealed to the Administrative Law Division pursuant to Code of Ala. 1975, ' 40-2A-7(c)(5)a. A hearing was conducted on February 4, 1999. Retired Colonel Charles Ramsey, Jr. represented the Petitioner. Assistant Counsel Keith Maddox represented the Department.

The issue in this case is whether the Petitioner is exempt from motor fuel excise tax pursuant to the exemption at Code of Ala. 1975, ' 22-21-333.

The Hale County Health Care Authority was incorporated in November 1993, pursuant to the provisions of Code of Ala. 1975, ' 22-21-310, et seq. The Petitioner is an agency of The Hale County Health Care Authority. The Petitioner provides emergency ambulance and other medical services to Hale County residents.

The Petitioner operates seven diesel-powered ambulances. The Petitioner

purchased diesel fuel from June 1997 through October 1998 on which it paid Alabama motor fuel excise tax. A Revenue Department employee informed the Petitioner that it was exempt from motor fuel excise tax and should file a petition for refund. The Petitioner filed a refund petition in November 1998. The Department denied the refund, claiming that the Petitioner is not exempt and that the advice given by the Department employee was wrong. The Petitioner appealed.

The Petitioner argues it is exempt from motor fuel excise tax because it is an agency of Hale County. There is evidence to support the Petitioner's claim. However, it is not necessary to decide that question because the Petitioner is exempt from motor fuel excise tax pursuant to ' 22-21-333. That exemption reads as follows:

All properties of an authority, whether real, personal or mixed, and the income therefrom, all securities issued by an authority and the coupons applicable thereto and the income therefrom, and all indentures and other instruments executed as security therefor, all leases made pursuant to the provisions of this article and all revenues derived from any such leases, and all deeds and other documents executed by or delivered to an authority shall be exempt from any and all taxation by the state, or by any county, municipality or other political subdivision of the state, including, but without limitation to, license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which an authority may engage. An authority shall not be obligated to pay or allow any fees, taxes or costs to the judge of probate of any county in respect of its incorporation, the amendment of its certificate of incorporation or the

recording of any document. Further, the gross proceeds of the sale of any property used in the construction and equipment of any health care facilities for an authority, regardless of whether such sale is to such authority or any contractor or agent thereof, shall be exempt from the sales tax imposed by Article 1 of Chapter 23 of Title 40 and from all other sales and similar excise taxes now or hereafter levied on or with respect to the gross proceeds of any such sale by the state or any county, municipality or other political subdivision or instrumentality of any thereof; and any property used in the construction and equipment of any health care facilities for an authority, regardless of whether such property has been purchased by the authority or any contractor or agent thereof, shall be exempt from the use tax imposed by Article 2 of Chapter 23 of Title 40 and all other use and similar excise taxes now or hereafter levied on or with respect to any such property by the state or any county, municipality or other political subdivision or instrumentality or any thereof.

The above underlined phrase applies in this case. The Petitioner is part of The Hale County Health Care Authority. The Petitioner uses diesel fuel to provide emergency ambulance service to Hale County residents. The motor fuel excise tax on diesel fuel is thus an excise tax imposed in respect of the privilege of engaging in any of the activities (providing ambulance service) in which an authority may engage.

The Department argues that only the property of a health care authority is exempt because '22-21-333 begins with the words "All properties of an authority..." However, the statute also exempts "all securities issued by an authority," "all leases," "all deeds," etc. The broad, all-inclusive language of the statute indicates the Legislature's intent to exempt all property owned and activities engaged in by an

authority, including all property purchased and used by an authority to conduct those activities.

The Department is directed to issue a refund to the Petitioner in the amount of \$2,048.33, plus applicable interest.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, ' 40-2A-9(g).

Entered February 12, 1999.

---

BILL THOMPSON  
Chief Administrative Law Judge

BT:ks

cc: Keith Maddox, Esq.  
Colonel Charles E. Ramsey, Jr.  
Floyd Atkins

HALE COUNTY EMERGENCY  
MEDICAL SERVICE  
P.O. Box 398  
Greensboro, AL 36744,

STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

Petitioner,

DOCKET NO. MISC. 98-515

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

PRELIMINARY ORDER  
ON APPLICATION FOR REHEARING

The Department has timely applied for a rehearing in this case. The Department is allowed until March 6, 1999 to specify the reasons why the application should be granted. Appropriate action will then be taken.

Entered March 2, 1999.

---

BILL THOMPSON  
Chief Administrative Law Judge

BT/ks

cc: Keith Maddox, Esq.  
Colonel Charles E. Ramsey, Jr.  
Floyd Atkins