

WARD INTERNATIONAL TRUCKS, INC.
P.O. Box 5375
Mobile, AL 36605,

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayer,

DOCKET NO. S. 00-216

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

**FINAL ORDER ON
TAXPAYER-S APPLICATION FOR REHEARING**

This appeal involves the sales tax exemption at Code of Ala. 1975, ' 40-23-4(a)(15).

That statute exempts the following:

The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards, and all educational institutions and agencies of the State of Alabama, the counties within the state, or any incorporated municipalities of the State of Alabama.

The parties initially stipulated that the Taxpayer-s sales in issue were to municipalities in Mississippi. A Final Order was entered on November 16, 2000 holding that sales to municipalities of other states are not exempt by ' 40-23-4(a)(15).

The Taxpayer applied for a rehearing in which it argues that the sales in issue were to city school boards in Mississippi, not municipalities in Mississippi, as originally stipulated by the parties. The Department agrees. The issue on rehearing is whether sales to city school boards from other states are exempt under ' 40-23-4(a)(15).

A statute must be construed to serve the intent of the Legislature as expressed by the language of the statute. *Gholston v. State*, 620 So.2d 719 (Ala. 1993). My initial thought upon reading ' 40-23-4(a)(15) was that only county and city school boards in Alabama were exempt. But further study of the statute shows otherwise.

Section 40-23-4(a)(15) exempts the following:

- (1) County and city school boards;
- (2) Independent school boards;
- (3) All educational institutions and agencies of the State of Alabama;
- (4) The counties within the state, and,
- (5) Any incorporated municipalities of the State of Alabama.

The Department argues that the exemption applies only to school boards, educational institutions, agencies, and cities and counties of the State of Alabama. That argument is defeated, however, by the inclusion of independent school boards in the statute. Although not defined by statute, independent school boards can only refer to school boards that govern private or parochial schools, i.e. non-public schools. The exemption thus clearly includes entities other than those of the State of Alabama.

While the statute limits the exemption for educational institutions, state agencies, counties, and municipalities to only those entities within or of the State of Alabama, the exemption for county, city, and independent school boards is not so limited. It would have been a simple matter for the Alabama Legislature to exempt county and city school boards and independent school boards in the State of Alabama if it has so intended. It did not do so.

I recognize the rule of statutory construction that the plain language of a statute should not be followed if it is reasonably clear that another meaning was intended by the Legislature. *Bailey v. USX Corp.*, 850 F.2d 1506 (Ala. 1988). That rule does not apply in this case. There is no indication that the Legislature intended to limit the exemption to only

county and city school boards in Alabama.

The Taxpayer's sales to school boards from the State of Mississippi were exempt from sales tax pursuant to ' 40-23-4(a)(15). The final assessment in issue is dismissed.

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

Entered December 5, 2000.