Special disticts and taxation

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Subject:
Special disticts and taxation

RE: TAXATION--SPECIAL DISTRICT IS TAXING DISTRICT FOR PURPOSES OF TAX COLLECTOR'S COMMISSION

To: L. Victor Desguin, Charlotte County Tax Collector, Punta Gorda

Prepared by: Sydney H. McKenzie III, Assistant Attorney General

QUESTIONS:

1. Is the Charlotte County Development Authority a taxing district within the meaning of s. 192.091(2)(c)1. and 2., F. S. and former s. 192.091(4), F. S., so that the tax collector is authorized to receive a commission for the collection and remittance of taxes?

2. Does s. 8, Ch. 73-172, Laws of Florida, amending s. 192.091(4), F. S., in combination with the definition of independent special district contained in Part III [Local Financial Management and Reporting], Ch. 73-349, Laws of Florida [s. 218.31, F. S.], alter the answer to question 1?

SUMMARY:

The Charlotte County Development Authority is the proper taxing district to be billed for commissions by the tax collector under s. 192.091(4), F. S. 1971. The amendment to that section by s. 8 of Ch. 73-172, Laws of Florida (effective January 1, 1974), relates only to tax assessors and does not affect the fees for tax collectors. Nor does the enactment of Part III, Ch. 73-349, Laws of Florida [ss. 218.30, 218.36, F. S.], which relates to local financial management and reporting and not to the question of what constitutes a taxing district within the meaning of s. 192.091(2)(c) and (4), F. S.

The answer to your first question is in the affirmative and the answer to your second question is in the negative.

Section 192.091(2)(c), F. S., reads in relevant part:

"The tax collectors of the several counties of the state shall be entitled to receive upon the amount of all real and tangible personal property taxes and licenses collected and remitted, the following commissions:

* * * * *

(c) On each taxing district:
1. Three percent on the amount of taxes levied on an assessed valuation of fifty million dollars; and
2. Two percent on the balance."

Section 192.091(4), F. S., prior to amendment by Ch. 73-172, Laws of Florida (the amendment by Ch. 73-172 struck out that portion italicized below), reads in relevant part:

"The commissions for *assessing the state taxes and for* collecting taxes assessed for or levied by the state shall be audited and allowed by the state comptroller and shall be paid by the state treasurer as other comptroller's warrants are paid; and commissions for assessing and for collecting the county taxes shall be audited and paid by the boards of county commissioners of the several counties of this state. The commissions for *assessing and for* collecting all special school district taxes shall be audited by the school board of each respective district and taken out of the funds of the respective special school districts under its control and allowed and paid to the said *tax assessors for assessing such taxes and to the* tax collectors for collecting such taxes; and the commissions *for assessing and* for collecting all other district taxes whether special or not shall be audited and paid by the governing board or commission having charge of the financial obligations of such district. All commissions *for assessing and* for collecting special tax district taxes shall be paid at the time and in the manner now or as may hereafter be provided for the payment of the commissions *for the assessment and* for the collection of county taxes. All amounts paid as compensation to any *tax assessor or to any* tax collector under the provisions of this or any other law shall be a part of the general income or compensation of such officer for the year in which received and nothing in this section contained shall be held or construed to affect or increase the maximum salary as now provided by law for any such officer."

The Charlotte County Development Authority which was created by Ch. 65-1357, Laws of Florida, as amended by Chs. 70-628 and 73-430, Laws of Florida, is a public body corporate, the territorial limits of which are coextensive with the county, and is given the statutory power to levy an annual tax on all taxable real and personal property in the county for specified purposes. (Sections 11 and 18, Ch. 65-1357, as amended.) Section 18 refers to the authority as "said district."

As set out above, s. 192.091(2)(c), F. S., provides for tax collectors to receive commissions on the amount of all real and tangible personal property taxes collected and remitted to each taxing district. Section 192.091(4), F. S., as set out above, provides for commissions for collecting all district taxes, whether special or not, from the governing board or commission having charge of the financial obligations of the district. The development authority, established in s. 4 of Ch. 65-1357, *supra*, as amended by Ch. 73-430, supra, is charged with control of the financial obligations of the authority. It, not the county government, has the power to levy taxes for appropriate statutory purposes. It is my opinion therefore that this authority is the taxing authority referred to in s. 192.091(2)(c) and (4) and is the proper party to be charged as the taxing district, under s. 192.091(4), rather than the county.

As to your second question, the amendments to s. 192.091(4), F.S., by s. 8 of Ch. 73-172, Laws of Florida (effective January 1, 1974), only strike language relating to *tax assessors'* fees for assessment of taxes and do not in any way affect fees for tax collectors or the above conclusion.

Nor do the definitions, found in s. 218.31, F. S., of special districts, as those definitions are limited to Part III of Ch. 73-349, Laws of Florida, relating to local finance management and reporting and do not relate to the question of what constitutes a taxing district under s. 192.091(4).