



Attorney General opinion clarifies the taxing power of joint economic development districts

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On January 9, 2015, Attorney General Mike Dewine issued an opinion as to whether Liberty Township and the City of Marysville, in forming a joint economic development district (JEDD) pursuant to Ohio law, have the authority to exempt net profits of businesses from an income tax levied by the JEDD board of directors.

Legislation providing for the creation of JEDDs was first adopted in 1993 under R.C. 715.70 and R.C. 715.71. The law authorizes municipal corporations, townships and counties to create JEDDs under contract using one of three procedures. The purpose of the JEDD statutes is to facilitate economic development and create employment opportunities in the areas of the JEDD. Once created by contract, the JEDD is governed by a board of directors, which has the power to adopt a resolution to levy an income tax within the JEDD.

In finding that JEDD contracts do not authorize a JEDD to exempt net profits of businesses from a JEDD income tax when the income tax is levied in the portions of the JEDD in which those businesses operate, the Attorney General noted that the authority to ratify such an approach rests solely with the contracting parties, rather than with the board of directors. Therefore, when a JEDD contract authorizes the board to levy an income tax in certain portions of a district, the net profits of businesses operating in those portions of the district are subject to the JEDD income tax as well.

Finally, the Attorney General concluded that neither R.C. 715.74 nor any other statute authorizes an income tax to be levied on the income of persons working within the JEDD while exempting the net profits of businesses operating in the same district. In fact, Ohio law expressly prohibits such an exemption in R.C. 718.01(D)(1). Absent one of the delineated exceptions to the prohibition in the statute, neither net profits from a business nor individual compensation for personal services are to be exempt from a municipal tax on income.

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