



TAX EXEMPT STATUS and/or INCOME TAX DEDUCTIONS FOR CONTRIBUTIONS TO SCHOOL DISTRICTS

Entities conducting business with Oklahoma public school district or persons making contributions to Oklahoma public school districts will frequently request an Internal Revenue Service (IRS) determination statement to evidence that the school district is a "501(c)(3)" organization. This determination allows an organization to be exempt from the payment of sales tax and other taxes, and allows a person making a donation to the organization to take the deduction on their federal and state taxable income.

An Oklahoma public school district is NOT a "501(c)(3)" entity. **An Oklahoma public school district is a political subdivision of the State of Oklahoma.** Because of its status as a political subdivision, it is not an organization of the type described in IRS Code § 501 (c)(3) for which a determination statement will be issued by the IRS.

An Oklahoma public school district, as a political subdivision of the State of Oklahoma, is not the type of entity for which the IRS issues a determination statement. IRS Code § 103 define a political subdivision as:

...any division of any State or local governmental unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit. *Code Regulation*, § 1.103-1.

The generally acknowledged sovereign powers are the powers to tax, the power of eminent domain and the police power. Rev. Rul. 77-164, CB 1977-1, p. 20 *Mertens, Law of Federal Income Taxation*, § 8.20, p.41.

An Oklahoma public school district is a "municipal corporation". *Joint School Dist. No 132 vs. Dabney*, 127 Okl. 234, 260 P. 486 (Okl. 1927). As to the attributes of sovereign power, an Oklahoma public school district has the authority under the Oklahoma Constitution to levy taxes, Okla. Constitution, Art. 10, §§9 and 10; has the power of eminent domain, tit. 70, *Okla. Stat.* § 5-117 (2001); and has limited police powers with reference to its operations, tit. 70, *Okla. Stat.* § 5-117 (2001). The Oklahoma Supreme Court has held that a public school district in the discharge of its duties is performing a mandatory governmental function. *Dahl vs. Hughes*, 347 P. 2d 208 (Okl. 1960). Public education has been held to be a function of the state. *Tryon Dependent School District vs. Carrier*, 474 P. 2d 131 (Okl. 1970).

Based upon the foregoing, it is clear that Oklahoma public school districts are "political subdivision" of the State of Oklahoma. As such, they are exempt from paying sales taxes on items purchased, and any contribution to a school district qualifies for federal/state income tax contribution under Code § 170 (c)(1).

