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ATTORNEY GENERAL

*State of Louisiana*  
DEPARTMENT OF JUSTICE  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

May 22, 2013  
OPINION 13-0062

54 – INSURANCE  
115 – TAXATION

La. R.S. 22:834

Mr. John A. Gallagher  
Louisiana Municipal Association  
700 North 10<sup>th</sup> Street  
P.O. Box 4327  
Baton Rouge, LA 70821

Consistent with La. R.S. 22:834, once an ordinance has been adopted for the imposition of taxes authorized by La. R.S. 22:833 and LaMATS enters into a contract with the municipality or parish for collecting such taxes, LaMATS possesses the same authority as any municipality or parish acting alone in collecting the taxes. This authority includes the ability to request access to any information regarding local taxes deemed necessary for the purpose of auditing records to ensure companies are complying with any necessary legal requirements as described by La. R.S. 22:834(B)(1).

Dear Mr. Gallagher:

Our office received your request for an opinion submitted on behalf of the Louisiana Municipal Advisory and Technical Assistance Bureau ("LaMATS") concerning the authority to audit insurance companies pursuant to La. R.S. 22:834.

Your letter indicates LaMATS was created in 1999 and is a wholly-owned for-profit subsidiary of the Louisiana Municipal Association ("LMA"). Further, you state the purpose of LaMATS is to contract with Louisiana municipalities and parishes for the collection of insurance premium taxes owed.

As background information, you represent that LaMATS has contracted with 180 municipal and parish governments to collect insurance premium taxes. Once the contract is executed, the governing authority of the local entity adopts an ordinance implementing the tax and granting LaMATS the authority to collect on its behalf. You state that it is the position of LaMATS and the LMA that once an ordinance is adopted implementing the tax and the contract to collect is entered into, by the authority granted to LaMATS in La. R.S. 22:834 and acting as an agent for the local government entity, it possesses all the authority as any municipality or parish acting alone in collecting the insurance premium taxes including the authority to request access to necessary records for purposes of auditing a company's records for the necessary and proper enforcement of not only state law but the laws of the political subdivisions under contract.

Once an ordinance is adopted and LaMATS enters into a contract with the municipality or parish, you have asked whether LaMATS possesses the same authority as any municipality or parish acting alone in collecting the insurance premium taxes, including

the authority to request access to records for audit purposes to ensure companies are complying with necessary legal requirements.

The pertinent statute is La. R.S. 22:834, which provides:

A. The taxes authorized by the provisions of R.S. 22:833 and imposed by local ordinance may be collected by the Louisiana Municipal Advisory and Technical Services Bureau (LaMATS) if an agreement upon the terms of the collection procedure is executed between LaMATS and the municipality or parish imposing the taxes. *Once such an agreement is executed, LaMATS is hereby endowed with all the rights, responsibilities, duties, and privileges of the municipality or parish in regard to the collection of the tax for the duration of the agreement.*

B.(1) *In accordance with the duty as collector, LaMATS shall have access to any information regarding local taxes deemed necessary by the commissioner of insurance or the Department of Insurance if such access is necessary or proper for the enforcement of the laws of this state or of a political subdivision of this state.*

(2) Except as otherwise provided by law, the records and files of LaMATS, as the contractually authorized collector of local taxes, which are maintained pursuant to the local tax ordinances are confidential and privileged, and no person shall divulge or disclose any information obtained from such records and files except in the administration and enforcement of the tax laws of this state or of a political subdivision of this state.

(3) Neither the collector nor any employee engaged in the administration or charged with the custody of any such records or files shall be required to produce any of them for inspection or use in any action or proceeding, except in an action or proceeding in the administration or enforcement of the tax laws of this state or of a political subdivision.

(4) Nothing contained in this Section shall be construed to prevent such persons from disclosing a return of a taxpayer or the records or files maintained pursuant to the local tax ordinances by which LaMATS is contracted to collect as authorized by law in any judicial proceeding in which the state or any political subdivision thereof is a party.

[Emphasis added].

Once an ordinance has been adopted and an agreement has been entered into between LaMATS and the municipality or parish, the unambiguous language of La. R.S. 22:834(A) provides, in pertinent part, that "LaMATS is hereby endowed with all the

rights, responsibilities, duties, and privileges of the municipality or parish in regard to the collection of the tax for the duration of the agreement." Further, in connection with its duty as collector, "LaMATS shall have access to any information regarding local taxes...if such access is necessary or proper for the enforcement of the laws of this state or of a political subdivision of this state." La. R.S. 22:834(B)(1).

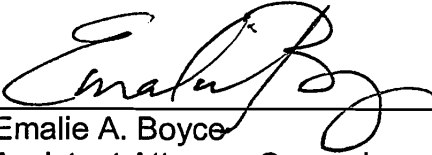
In light of the above, it is the opinion of this office that, consistent with La. R.S. 22:834, once an ordinance has been adopted for the imposition of taxes authorized by La. R.S. 22:833 and LaMATS enters into a contract with the municipality or parish for collecting such taxes, LaMATS possesses the same authority as any municipality or parish acting alone in collecting the taxes. This authority includes the ability to request access to any information regarding local taxes deemed necessary for the purpose of auditing records to ensure companies are complying with any necessary legal requirements as described by La. R.S. 22:834(B)(1).

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JAMES D. "BUDDY" CALDWELL  
ATTORNEY GENERAL

BY:



Emalie A. Boyce  
Assistant Attorney General

JDC: EAB

cc: Commissioner James J. Donelon, Louisiana Department of Insurance