



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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

JUN 17 2015
OPINION 15-0035

90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 39:704

Chad P. Pitre
Assistant District Attorney
St. Landry Parish Government
111 N. Court St.
Opelousas, LA 70570

Sales and use tax proceeds collected by St. Landry Parish Road District No. 1 and dedicated to the improvement and maintenance of roadways within that District may not be used to improve or maintain roadways that are located outside the District.

Dear Mr. Pitre:

On behalf of the St. Landry Parish Council (the "Parish"), you have requested an opinion of this office regarding the use of dedicated sales and use taxes collected by the Parish. Your request states that St. Landry Parish Road District No. 1 (the "District") collects a two percent (2%) tax upon the sale at retail, use, lease or rental, construction, and storage for use or consumption, of tangible personal property and on the sales of services within the District. The proposition approved by the voters of the District states that the net proceeds of the tax are to be "dedicated and used only and exclusively for constructing, improving roads, bridges and related drainage in the District..."

According to your request, half of a particular roadway is physically located within the District, while the remaining half is located outside the District within the Village of Cankton. You have asked whether the Parish may spend the tax money collected by the District on that portion of the roadway located outside the District.

Louisiana law provides that the proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied. La. R.S. 39:704. Additionally, Louisiana jurisprudence provides that special tax authorizations must be strictly construed. *Police Jury of the Parish of Acadia v. All Taxpayers, et al.*, 95-145 (La.App. 3 Cir. 3/29/95); 653 So.2d 94, rehearing denied, 657 So.2d 1032 (La. 6/30/95); *Hemler v. Richland Parish School Board*, 76 So. 585 (La. 1917); *Watkins v. Ouachita Parish School Board*, 136 So. 591 (La. 1931); *Hodnett v. Monroe City School Board*, 277 So.2d 598 (La. App. 2 Cir. 1972) and *Brock v. St. James Parish Council*, 407 So.2d 1265 (La. App. 4 Cir. 1981), writ denied 412 So.2d 1094 (La. 1982). Moreover, it has consistently been the opinion of this office that sale

and use tax proceeds must be used solely for the purposes approved by the voters. See, e.g. La. Atty. Gen. Op. Nos. 13-0159, 12-0089, 09-0150, 02-0060.

The proposition for this tax approved by the voters of the District specifically states that the tax proceeds are to be used "only and exclusively for constructing, improving roads, bridges and related drainage **in the District.**" Thus, tax proceeds may only be used to improve those roads that are physically located in the District. Part of the particular roadway at issue here is not physically located within the District, despite the fact that it runs adjacent to the District and is maintained by the Parish. Accordingly, the District's tax proceeds cannot be used to improve or maintain that part of the roadway lying outside the district.

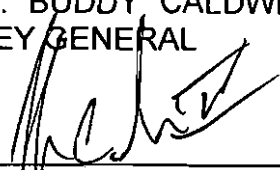
Considering the foregoing, it is the opinion of this office that the Parish may not spend the District's sales and use tax proceeds dedicated to roadways within the District on roadways that are located outside of the District. Expending these proceeds on roadways outside the District violate the purpose of the tax that was approved by the voters.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By:



John C. Morris IV
Assistant Attorney General

JDC/JCMIV