

TO: Edward W. [redacted] Superintendent  
Arizona State School for the Deaf and  
the Blind

RE: Taxability of [redacted] by a county  
or Sanitary District

QUESTION: Whether Pima County can legally  
assess a Sanitary District Tax  
on property owned by the State

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PIMA COUNTY ATTORNEY GENERAL

Section 2 of Article 9 of the Constitution of Arizona reads in part as follows:

"Section 2 (Tax Exemption) There shall be exempt from taxation all federal, state, county, and municipal property \* \* \*" (Emphasis supplied)

The Sanitary District Act of 1941, which is contained in Article 10 of Chapter 63 of the Arizona Code Annotated, as amended, provides in Section 63-1018 as follows:

"63-1018. Tax Levy to Pay Bonds.-- (a) The principal of and interest on bonds issued pursuant to this act shall be paid out of revenue derived from an annual tax on the real property within the sanitary district issuing the same, and all such real property shall remain liable to taxes for payment of the bonds and interest until the same are paid in full. (b) The board of directors of a sanitary district shall annually, not less than fifteen (15) days before the first day of the month in which the board of supervisors of the county in which the district is located is required by law to levy county taxes, certify to the board of supervisors the amount necessary to pay the interest on the bonds of the district, and such portion of the principal thereof as will become due, during the ensuing year. The board of supervisors, at the time of levying general county taxes, shall levy and cause to be collected, in the manner prescribed by law for county taxes, a tax upon the real property within the sanitary district, based upon the current assessment roll, sufficient to pay the amount so certified by the board of directors. In the event the board of directors of any sanitary district fails to certify to the board of supervisors

the amount necessary, the board of supervisors shall ascertain the amount which should have been certified, as provided in this section, and shall levy and cause to be collected a tax sufficient to produce that amount." (Emphasis supplied)

There are several Arizona cases interpreting the constitutional exemption given state property and the rule enunciated in all of them is to the effect that taxes cannot be levied or assessed against property owned by the state.

ARIZONA LAND AND STOCK CO., a corporation v.  
I. A. MARKUS (1931) 37 Ariz. 530, 296 P. 251;

CITY OF PHOENIX v. ELLIAS (1946) 64 Ariz. 95,  
166 P. 2d 589.

As the above quoted section of the Code uses the words "an annual tax on the real property within the sanitary district" the tax is clearly an ad valorem tax and not an excise tax. Therefore, the case of CITY OF PHOENIX v. BOWLES (1947), 65 Ariz. 315, 180 P. 2d 222, does not pertain to this question, as the court held in this case that the constitutional immunity of state property did not extend to protect said property from the imposition of an excise tax.

Therefore, it is the opinion of this office that the property described in your letter as the property of the State of Arizona and used by the Arizona State School for the Deaf and the Blind is not subject to the imposition of a tax by a county or sanitary district.

ROSS F. JONES  
The Attorney General

JOHN M. MC GOWAN  
Assistant to the  
Attorney General