



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 86-27

February 4, 1986

Senator Bill Walters
Arkansas Senate
P.O. Box 280
Greenwood, AR 72936

Dear Senator Walters:

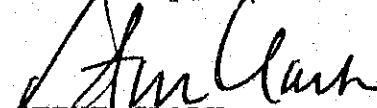
Your question concerning a utility's ability to collect a sales tax on a franchise tax is one frequently received by this office. While it does seem somewhat unfair to allow a utility to collect a "tax on a tax," such a procedure is consistent with Arkansas law.

Under Ark. Stat. Ann. Section 84-1903 and 84-1903.1, the State has levied a 4% gross receipts, or sales, tax upon the "gross proceeds or gross receipts derived from all sales to any person." "Gross receipts" is defined as "the total amount of consideration for the sale of tangible personal property and ... services ... without any deduction therefrom on account of the cost of the properties sold, labor service performed, interest paid, losses or any expenses whatsoever." Ark. Stat. Ann. Section 84-1902.

The municipal franchise taxes are a part of the gross proceeds a utility receives from the sale of electricity. There is no specific sales tax exemption under any Arkansas statute for franchise taxes. Consequently, it is my opinion that the law requires a utility to apply the sales tax to all of its gross receipts, including franchise taxes.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Mary B. Stallcup.

Sincerely,


STEVE CLARK
Attorney General

SC:MBS:jr