

SOUTH CENTRAL ALABAMA  
DEVELOPMENT COMMISSION  
5900 Carmichael Place  
Montgomery, AL 36117,

Petitioner,

v.

STATE OF ALABAMA  
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE LAW DIVISION

DOCKET NO. MV. 04-536

**FINAL ORDER DENYING  
DEPARTMENT'S APPLICATION FOR REHEARING**

A Final Order was entered in this case on September 29, 2004 holding that the Petitioner, South Central Alabama Development Commission, was an agency or subdivision of its member counties, and thus entitled to the motor vehicle license exclusion at Code of Ala. 1975, §40-12-250. The Department timely applied for a rehearing, arguing that while the Petitioner may be an agency or arm of the counties for sales, use, and property tax purposes, it is not an agency of the counties for motor vehicle licensing purposes. "It is the position of the Department that simply because an agency might be considered to be a subdivision of a county for purposes of sales tax, use tax, or ad valorem tax, it does not necessarily follow that the agency would be considered 'a county' for purposes of the motor vehicle license tax." Department's Application for Rehearing at 4.

Section 40-12-250 provides in pertinent part that "[m]otor vehicles owned and used by the state, or a county, or a municipality of this state shall not be subject to the payment of license taxes levied, but shall display permanent license plates." The §40-12-250 exclusion applies to a county or any subdivision or agency of a county. The issue thus is whether the Petitioner is an agency or subdivision of its member counties.

As indicated in the September 29 Final Order, the Department has since at least 1977 recognized a development commission as an agency or extension of a county government – “Since your organization is considered to be an extension of county and municipal governments, . . .” October 12, 1977 letter from Revenue Examiner James Smith, State Ex. 4.

The Attorney General has on at least three occasions also found that a development commission is an agency of its member counties. In the August 8, 1974 opinion discussed on pages 2 and 3 of the Final Order, the Attorney General held, as follows:

A regional planning and development commission as certified and designated by the Governor under the provisions of Act No. 1126, supra, is purely governmental and public in its nature and function. . . . It is my opinion that these commissions are clearly state planning and development districts and because of their composition of county and municipal governments must be considered as political subdivisions of the State of Alabama. It is my conclusion that all of the regional planning and development commissions should be treated as counties and municipalities in their exemption from sales and use taxes since such commissions are mere extensions of the aforementioned governmental units for the purposes of state planning and development.

The Department argues that while the Petitioner may be an agency or subdivision of a county for sales, use, and ad valorem tax purposes, it should not be recognized as such for motor vehicle licensing purposes. I disagree. If the Petitioner is an agency of its member counties, which it is, then it is entitled to and qualifies for all tax exclusions and exemptions to which counties are entitled, including the motor vehicle license exclusion at §40-12-250. The Petitioner cannot be an agency of the counties for some purposes, but not for others. The Petitioner’s motor vehicles are “owned and used” by the Petitioner in his capacity as an agency of its member counties. The §40-12-250 exclusion thus applies.

The Department’s Application for Rehearing is denied. The September 29, 2004

Final Order is affirmed.

This Final Order Denying Department's Application for Rehearing may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered October 27, 2004.

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BILL THOMPSON  
Chief Administrative Law Judge