

TAA 96B5001

[[October 1, 1996]]

Re: Technical Assistance Advisement No. 96(B)5-001

<<Fuel Tax Refund/Mass Transit System>>

Dear:

Your request for advice on whether the XXXX [City] qualifies for a Mass Transit System credit has been given to me for response.

### **Facts**

An interlocal agreement between the XXX [City] and the XXXX [County] was entered into on December 20, 1994.

The agreement requires that the county lease four transit coaches to the city which will "be used solely for the purpose of providing public transportation to the general public at large on a non-exclusive basis, and shall be used solely for fixed-route and demand response modes of services. The transit coaches shall be operated and used under the sole dominion, control, direction and expense of the City. None of the transit coaches may be chartered or used in any type or form of charter service. The City shall keep the County informed of any proposed alterations to the transit services for which the four (4) transit coaches are utilized including but not limited to routing, mode(s) of operation, hours of service or headways. Any material alteration of the service and any increase in the fare charged to the public for service shall be subject to a public hearing process prior to implementation."

### **Law**

Section 159.02(19), Florida Statutes, defines "mass transportation" as:

... any system for the transportation of the public by bus, rail or any other means of conveyance serving the general public and moving over prescribed routes.

Section 206.41(4)(a), Florida Statutes, provides:

(a) Any person who uses motor fuel on which the taxes imposed by paragraph (1), (e), (f), or (g) have been paid for any system of mass public transportation authorized to operate within any city, town, municipality, county, or transit authority region in this state, as distinguished from any over-the-road or charter system of public transportation, is entitled to a refund of such taxes. However, such transit system shall be entitled to take a credit on the monthly diesel fuel tax return not to exceed the tax imposed under said paragraphs on those gallons which would otherwise be eligible for refund, when such transit system is licensed as a mass transit system. A public transportation system or transit system as defined in this paragraph may operate outside its limits when such operation is found necessary to adequately and efficiently provide mass public transportation services for the city, town, or municipality involved. A

transit system as defined in this paragraph includes demand service that is an integral part of a city, town, municipality, county, or transit or transportation authority system but does not include independent taxicab or limousine operations. The terms "city," "county," and "authority" as used in this paragraph include any city, town, municipality, county or transit or transportation authority organized in this state by virtue of any general or special law enacted by the Legislature.

## **Conclusion**

We find that, under the terms of the interlocal agreement between the XXX [City] and the XXXX [County], the XXX [City] is providing a mass transit service as defined in s. 159.02(19), F.S., and is entitled to the credit, under the provisions of s. 206.41(4)(a), F.S., when licensed as a mass transit system by this Department.

This response constitutes a technical assistance advisement under s. 213.22, F.S., which is binding on the department only under the facts and circumstances described in the request for this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response and your request are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details which might lead to identification of the taxpayer must be deleted by the department before disclosure. In an effort to protect confidential information, we request you notify the undersigned in writing within 15 days of any deletions you wish made to the request or this response.

Sincerely,

Lynwood Taylor  
Senior Tax Specialist  
Tax Policy & Dispute  
Resolution

LNT/Int  
Control No. 25552