

OPINION 39

OFFICIAL OPINION NO. 39

December 2, 1969

Mr. B. A. Poole
Technical Secretary
Indiana Stream Pollution Control Board
1330 West Michigan Street
Indianapolis, Indiana

Dear Mr. Poole:

This is in response to your request to my predecessor in 1968, as renewed to me in your recent letter, for an Official Opinion on the following question:

“Do sewage treatment plants built by and within the premises of a privately owned manufacturing or industrial plant qualify for exemption from ad valorem personal property taxation by the State of Indiana and its political subdivisions under the provisions of Chapter 174 of the Acts of 1967?”

Chapter 174 of the Acts of 1967 concerns industrial waste disposal facilities used to prevent, control, reduce, or eliminate pollution of the streams and public bodies of water within or adjoining the State of Indiana and exempts from taxation certain tangible personal property being so used.

The Act specifically applies to tangible personal property, and Section 1 thereof states this:

“SECTION 1. For the purpose of this act, the term ‘industrial waste control facilities’ means the tangible personal property, taxable as personal property, included as part of or an adjunct to a privately owned manufacturing or industrial plant and employed predominantly for the purpose of accomplishing the objectives of the Stream Pollution Control Board of Indiana to prevent, control, reduce or eliminate pollution of the streams and public bodies of water within or adjoining the State of Indiana by treating, pretreating, stabilizing, isolating, collecting, holding, controlling and/or disposing of wastes and contaminants generated by such plant.”

Section 2 of the same Act specifies the tangible personal property which fulfills the definition, as follows:

“SEC. 2. Any tangible personal property not used in the production of property for sale but constituting an industrial waste control facility, as herein defined, shall be exempt from ad valorem property taxation by the State of Indiana and any political subdivision thereof.”

Section 3 of the same Act gives the Indiana Stream Pollution Control Board the authority to determine in such instance whether or not tangible personal property claimed by an industrial taxpayer for exemption is being currently utilized as a water pollution control facility.

The stated intention of the Indiana General Assembly was to provide this tax exemption as an incentive to industry to make a massive effort to prevent, control, reduce, or eliminate pollution of the streams and public bodies of water. Any latent ambiguity should be resolved in view of the stated intent. Additionally, it should be noted that the Act in question places a continuing supervisory control in the hands of the Stream Pollution Control Board.

It is my opinion that the answer to your question is yes. Sewage treatment plants built by and within the premises of a privately-owned manufacturing or industrial plant, as part of that plant's positive efforts to prevent, control, reduce or eliminate water pollution, qualify for the tangible personal property tax exemption so long as they meet the definitions in this Act and comply in full and currently with the Act and the rules and regulations of the Indiana Stream Pollution Control Board.