TAXATION: MISCELLANEOUS TAXES - CONSUMER UTILITY TAXES.

Each cost required to make essential components of E911 system operational-automatic routing of calls to public safety answering point facility that automatically locates caller and dispatches appropriate public safety service-need not be expressly authorized by statute. Bedford County may include as cost of establishing such system purchase of radio equipment to transmit information by radio frequencies from public safety answering point to public safety agencies.

Mr. J.G. Overstreet
County Attorney for Bedford County

April 2, 1996

You ask whether Bedford County may use revenue from a tax imposed to establish an enhanced 911 emergency telephone system ("E911 system") to purchase radios and consoles for use by the county public safety agencies.

You relate that the county anticipates developing an E911 system that will electronically transmit information regarding an emergency to the appropriate public safety agency. You state that, because the proposed system will be able to transmit the information to the public safety agencies by radio frequencies, the purchase of radios and consoles for use by the public safety agencies is necessary for the system to operate effectively.

The provisions of § 58.13813(A) and (D) of the Code of Virginia authorize a locality to impose a special tax on telephone service consumers for the purpose of establishing and paying certain maintenance costs of an E911 system. Section 58.13813(D) provides that, in establishing the system, the jurisdiction shall use the taxes imposed by § 58.13813 "solely for the initial capital, installation and maintenance costs of the E911 emergency telephone system."

Section 58.13813(B)(1) defines an "E911 system" as "a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits `911' to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed." The system includes "selective routing of telephone calls, automatic telephone number identification, and automatic location identification performed by computers and other ancillary control center communications equipment."

Section 58.13813(B)(2) defines a "public safety answering point" as a communications facility that receives the E911 calls and that may "directly dispatch public safety services or extend, transfer, or relay E911 calls to appropriate public safety agencies."

The central components of an E911 system are the automatic routing of calls to a public safety answering point facility, the facility's automatic location of the caller and the dispatching of the appropriate public safety service. Prior opinions of the Attorney General conclude that costs necessary to make such a system operational are encompassed within § 58.13813(D). Thus, because mapping is an essential element in locating the caller and dispatching the service, the costs of mapping may be paid as an installation cost. New street name signs that reflect the mapping and enable public safety personnel to respond to 911 calls also may be paid as a cost essential for the successful operation of the system. On the other hand, costs that merely facilitate the general provision of emergency service without automatically routing calls to a central dispatch point or automatically locating the caller are not components of an "enhanced" emergency telephone system and are not recoverable by a tax imposed under § 58.13813.
These prior opinions consider a proposed system as a whole. If the system contains the essential components of an E911 system, each cost required to make the system operational need not be expressly authorized in the statute. Assuming that the system proposed in Bedford County will contain all of the essential components of an E911 system, it is my opinion that the county may include as a cost of establishing the system radio equipment that is to be used by the public safety agency for the purpose of receiving information from the public safety answering point and responding to the emergency calls.

\(^1\) After these initial costs are fully recovered, § 58.13813(D) requires that the locality reduce the tax to an amount necessary to pay certain "recurring maintenance, repair, and system upgrade costs."

\(^2\) Section 58.13813(B)(1).

\(^3\) A "public safety agency" is a "division of a public agency which provides fire-fighting, police, medical, or other emergency services or a private entity which provides such services on a voluntary basis." Section 58.13813(B)(3).

\(^4\) See § 58.13813(B)(1)(2) (defining "E911 system," "public safety answering point").


\(^8\) See 1993 Op. Va. Att'y Gen. 237, 23840 (locality may not impose tax on cellular telephone customers for calls not routed automatically to county central dispatch point but rather routed to state police dispatcher who then manually routes calls to appropriate jurisdiction).

\(^9\) See § 58.13813(B)(1)(2) (defining "E911 system," "public safety answering point").

\(^10\) My conclusion also is consistent with the statutory definition in § 58.13813(B)(1) of an "E911 system" as including not only "a computerized system" but also "other ancillary control center communications equipment."