

surplus is reinvested in the corporate activities without actual or potential distribution for the benefit of any private shareholder or individual, the corporation is not conducted for pecuniary profit within the meaning of the law. But if there is a distribution of profit, the particular form of distribution is irrelevant; whether the profits of operation are distributed as interest on mortgage bonds or other fixed debt, by salaries so large that they necessarily constitute distribution of profits, or by any other means, or even if profits are undistributed, but accumulated with the potentiality of distribution to shareholders or other persons interested in the corporation upon its dissolution, the taxpayer must be considered as conducted for a profit.

Applying these principles to the facts which you have presented to us, our opinion is that the Farmers' Cooperative Association of New Jersey, Inc. No. 3821-2750 is subject to the New Jersey Corporation Business Tax Act for the years 1946 to 1952 because it contemplates making, and has made, a net return or profit, part of which is distributed annually to patrons and members, and the remainder of which will be distributed to members upon dissolution.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: MURRY BROCHIN
Deputy Attorney General

MARCH 17, 1960

HON. GEORGE C. SKILLMAN, *Director*
Division of Local Government
Department of Treasury
137 East State Street
Trenton, New Jersey

MEMORANDUM OPINION—P-4

DEAR DIRECTOR:

You have asked whether a county board of chosen freeholders may contribute to a first aid, volunteer ambulance or rescue squad rendering service in less than all of the municipalities in the county. R.S. 40:5-2 provides that:

"Any county or municipality may make a voluntary contribution of not more than three thousand dollars (\$3,000.00) annually to any duly incorporated first-aid and emergency or volunteer ambulance or rescue squad association of the county, or of *any* municipality therein, rendering service generally throughout the county, or any of the municipalities thereof."

It has been suggested that a county board of chosen freeholders is prohibited from making contributions to a particular squad unless it is organized and operates on a county-wide basis. The argument is that the placement of the disjunctive term "or" conveys a direction that counties may only contribute to county squads and municipalities are limited to supporting municipal squads operating within the particular borders of the municipality.

It is our opinion that such an interpretation is not correct. The emphasis must be placed upon the term "any" as used in the section. In that regard, counties or municipalities may make contributions to any squad in any municipality in the county. This term clearly indicates the intention of the Legislature with respect to authorizing the discretionary payments by municipal or county authorities to rescue squads serving in part of or throughout the whole county. Had the Legislature intended otherwise, the term "respectively" could and should have been used.

The result conforms to the legislative policy of supporting squads rendering beneficent services in the county. Soundness dictates that county authorities be permitted to contribute to locally organized squads if, in the discretion of the county, it is found that the squad renders services beyond particular municipal borders. The same is true with municipalities which rely on the services of either a county-oriented squad or squad in another municipality. A liberal policy of authorizing contributions of this type encourages associations to organize and render services throughout the county and, in turn, lessens the burden of government in both the county and municipalities.

Such an interpretation finds support in practice. In 1958, county boards provided by appropriations contributions of \$28,250, ranging from \$1,250 to \$9,600 to municipally organized rescue squads. Thus, payments of this type have been consistently recognized as a legitimate expense by the Division of Local Government.

Very truly yours,

DAVID D. FURMAN
Attorney General

DAVID M. SATZ, JR.
Deputy Attorney General

MARCH 30, 1960

HONORABLE JOHN A. KERVICK
State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-5

DEAR MR. KERVICK :

You have requested our opinion as to the proper interpretation of N.J.S.A. 43:15A-12 with regard to the cost formula to be applied in the purchase of service credit covering the period of time that an employee has been on loan to the Federal Government. This section reads as follows :

"Any State employee who was a member of the former 'State Employees' Retirement System' and whose services were or have been made available by this State to the Federal Government may, *if and when he or she has returned or shall return to service with this State*, or if he or she has retired or been retired under the said system, contribute to the annuity savings fund provided for in section 25 of this act, such sum or sums, either in 1 payment or in installments, as determined by the board of trustees