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July 13, 1936

MT:SS:EMJ

Broward County Port Authority,

Fort Lauderdale, Florida

Sirs:

Reference is made to your letter of May 29, 1936, with which you enclosed a certified copy of the Special Act of the Florida Legislature under which the Broward County Port Authority is governed and in which you submitted certain information that this office advised you, in a letter dated May 26, 1936, would be necessary before a full and complete answer could be made to the inquiry presented by you under date of April 1, 1936, relative to the applicability of the taxes imposed under the Carriers Taxing Act, approved August 29, 1935 (Public, No. 400, 74th Congress) to the Broward County Port Authority and its employees.

It is stated that the Broward County Port Authority, created by an act of the Florida Legislature, approved June 5, 1935, is the governing body of the Broward County Port District which comprises approximately three-fourths of Broward County, Florida; that it operates Port Everglades Harbor, its warehouses and all port facilities appurtenant thereto and is otherwise engaged in a general port administration and operation business; that in connection with such business it operates the Port Everglades Railway, a switching line five miles long, connecting shipside at Port Everglades with the Florida East Coast and Seaboard Air Line Railways; that there is no separate holding or operating company for the railroad; that for the operation of the railroad the Port Authority holds a certificate of convenience and necessity from the Interstate Commerce Commission by virtue of which it is a common carrier subject to the Interstate Commerce Act.

It is further stated that the employees of the railroad are regular employees of the Port Authority, as are all other employees in other departments; that the total number of employees of the Port Authority as of May 29, 1936 was 33; that the total number of employees engaged exclusively in railroad service as of that date was 20; that the number of employees engaged partly in railroad work and partly in other port services was 2, and the percentage of time of employment on railroad work, was 20 per cent.

You request to be advised as to the applicability of the taxes imposed under the Carriers Taxing Act to the Broward County Port Authority and its employees.

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In reply you are advised that after careful consideration of the evidence submitted it is the opinion of this office that the Broward County Port Authority is subject to the excise tax imposed under Section 4 of the Act, only with respect to the compensation not in excess of \$300 per month paid to its employees who devote all or the principal part of their time to the carrier activities of the organization and only those employees of the Port Authority who devote all or the principal part of their time to the carrier activities of the organization are subject to the income tax imposed under section 2 of the Act. Under the provisions of section 3 (a) of the Act and article 203 of Regulations 93, issued pursuant thereto, the Port Authority is required to collect the income tax imposed under section 2 of the Act by deducting the amount of the tax from the compensation of the employees as and when paid.

With respect to those employees of the Port Authority who perform no services which are related to the carrier activities of the organization and to those employees who perform some services which are related to the carrier activities of the organization where such services, compared with the total service of the employees, are inconsequential, you are advised that the taxes imposed under section 2 and 4 of the Carriers Taxing Act are not applicable to the compensation paid to such employees.

In accordance with your request, the certified copy of the Special Act of the Florida Legislature, under which the Broward County Port Authority is governed, is enclosed.

Respectfully,

D. S. Bliss,
Deputy Commissioner

Encl. 1