

**OPINION NO. 70-148****Syllabus:**

1. The admissions tax described in Chapter 61 of the Code of Ordinances of the Village of Oxford are not applicable to admissions charged to Miami University-sponsored events.

2. Distinctions are made between events sponsored by Miami University, such events being exempt, and those sponsored by student organizations, such events not being exempt.

3. Miami University is not required to collect and remit the admissions tax to the Village of Oxford on any university-sponsored event, since such tax does not apply to university-sponsored events.

---

**To: Lloyd Goggin, V. Pres. for Finance and Business Affairs, Miami University,  
Oxford, Ohio**  
**By: Paul W. Brown, Attorney General, November 2, 1970**

I have your request for my opinion which asks the following specific questions:

"1. Is the admissions tax described in Chapter 61 of the Code of Ordinances of the Village of Oxford applicable to admissions charged to Miami University events?

"2. Is any distinction made between events sponsored by Miami University or by student organizations of Miami University?

"3. Is Miami University required to collect and remit the admissions tax to the Village of Oxford on any University sponsored event for which there is an admission charge?"

Municipal corporations in Ohio derive power to levy taxes from Section 3, Article XVIII, Ohio Constitution, which provides:

"Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws."

Chief Justice Nichols stated in The State, ex rel. Zielonka, v. Carrel, 99 Ohio St. 220, at page 227:

"\* \* \* we find in Section 3, Article XVIII, as complete a grant of power as the general assembly has received in Section I, Article II. There can be no doubt that the grant of authority to exercise all powers of local government includes the power of taxation, for without this power local government in cities could not exist for a day. It is a known fact that the necessary expense incident to the maintenance of the government of a modern city transcends all other forms of governmental expense.

"\* \* \* \* \* \* \* \*"

The state did impose an admissions tax from 1933, 115 Ohio Laws, 657, et seq., to 1947, 122 Ohio Laws, 459. Since the repeal of the tax in 1947, however, a municipal corporation has not been precluded from enacting an admissions tax by reason of the judicially recognized preemption doctrine. See Opinion No. 1697, Opinions of the Attorney General for 1958, page 76.

This is not to say, however, that an admissions tax may be levied by a village upon the activities of a state university. Miami University is organized under Section 3339.01, et seq., Revised Code, as a public university.

Public universities have been granted specific exemption from certain taxes by Section 5709.07, Revised Code, which provides:

"Public schoolhouses and houses used exclusively for public worship, the books and furniture therein, and the ground at-

tached to such buildings necessary for the proper occupancy, use, and enjoyment thereof, and not leased or otherwise used with a view to profit, public colleges and academies and all buildings connected therewith, and all lands connected with public institutions of learning, not used with a view to profit, shall be exempt from taxation. This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income thereof is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict." (Emphasis added)

This statute has been recently interpreted in Denison University v. Board of Tax Appeals, 2 Ohio St. 2d 17 (1965), the court determining that all buildings connected with such a public college or academy and used with reasonable certainty in furthering or carrying out the necessary objects and purposes of such academy or college, including the president's residence, and all lands connected with such a public institution of learning and not used with a view to profit, are exempted from taxation by Section 5709.107, supra.

Although this statute is concerned with property taxes and there is presently no statute exempting such a public university from an admissions tax, which is an excise tax, the courts have applied the same principles to excise taxes on state instrumentalities or agencies.

In Village of Willoughby Hills v. Board of Park Commrs. of Cleveland Metropolitan Park District, 3 Ohio St. 2d 49, the court considered the validity of a municipal excise tax on the fees levied by the park district. Involved were admission fees charged by the park district for use of the park's public golf course. The Supreme Court of Ohio in holding that the park district did not have to collect and remit an admissions tax on such fees, stated at page 51:

" \* \* \*                      \* \* \*                      \* \* \*

"We do not find any statutory provision that authorizes a municipality to impose a collection and remittance of an excise tax upon a governmental agency. The authority of the municipality to levy an admission tax is derived from the state Constitution (Section 3, Article XVIII) but it cannot interfere with a political subdivision of the state. To permit this would be tantamount to permitting a municipality to levy an excise tax against the state.

"This court can conclude only that the action of the municipality in imposing the duty of collecting and remitting an excise tax on the park board is an unwarranted interference with a political subdivision of the state not authorized by statute.

"\* \* \*

\* \* \*

\* \* \*"

(Emphasis added)

It is my opinion that the same reasoning should be applied to the situation being considered here. Miami University has been created as a state university by the legislature by Section 3339.01, supra. Any attempt by the Village of Oxford to levy an admissions tax against such state university, or to require the university to collect an admissions tax, exceeds the authority granted to it by Section 3, Article XVIII of the Constitution, since it would be a tax against the state.

Following the reasoning of the court in Denison University v. Board of Tax Appeals, supra, university-sponsored events which further or carry out the objects and purposes of such university would also be exempt from taxation. However, student organizations which are not a part of the educational program of the university would not be protected by the exemption doctrine mentioned.

It is therefore my opinion, and you are hereby advised, that:

1. The admissions tax described in Chapter 61 of the Code of Ordinances of the Village of Oxford are not applicable to admissions charged to Miami University-sponsored events.

2. Distinctions are made between events sponsored by Miami University, such events being exempt, and those sponsored by student organizations, such events not being exempt.

3. Miami University is not required to collect and remit the admissions tax to the Village of Oxford on any university-sponsored event, since such tax does not apply to university-sponsored events.