



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 91- 46A

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Great Bend, Kansas 67530

Re: Agriculture -- State and Other Agricultural  
Societies and Fairs; County Fairs and Agricultural  
Societies -- Counties Having Fair Associations; Tax  
Levy; Aggregate Limitations

Taxation -- Aggregate Tax Levy Limitations --  
Authority to Levy Taxes in Addition to Aggregate  
Levy Limits; County Fair Associations

Synopsis: A county fair association, pursuant to K.S.A.  
2-131b, may request the board of county  
commissioners to levy an annual tax, however, the  
amount must comply with the aggregate tax levy  
limitations set forth in K.S.A. 1990 Supp.  
79-5021 et seq. unless the county or the levy  
is exempted pursuant to K.S.A. 79-5029, 79-5030,  
79-5032 or K.S.A. 1990 Supp. 79-5036. Cited  
herein: K.S.A. 2-131b; 79-5029; 79-5030; K.S.A.  
1990 Supp. 79-5032; 79-5036.

\* \* \*

Dear Mr. Boeckman:


This opinion is in response to several inquires requesting  
clarification of Attorney General Opinion No. 91-46, regarding  
whether the amount of funding for a county fair association is  
exempted from the county's aggregate tax levy limit pursuant  
to K.S.A. 1990 Supp. 79-5032.

It should be noted that Attorney General Opinion No. 91-46 included a misstatement when it said that the association could exempt itself from the levy. Only the county or the levy can be exempted from the aggregate tax levy limit pursuant to the provisions set forth in K.S.A. 1990 Supp. 79-5021 et seq.

K.S.A. 2-131b authorizes the fair association to request the board of county commissioners to levy an annual tax of not more than five-tenths of one mill. After reviewing the request, the board of county commissioners has the authority to modify the requested amount based on what they determine is necessary for the county fair association. K.S.A. 1990 Supp. 79-5032 is for the benefit of any taxing subdivision which is required by law to levy taxes for a political or governmental subdivision of this state which is not authorized to levy taxes on its own (i.e. library, recreation commission). Since the taxing subdivision cannot modify the amount of those taxes, it is allowed to exempt that tax levy amount from its aggregate limit. See Attorney General Opinion No. 87-167. In the case of the fair association the county can modify the amount requested, so K.S.A. 1990 Supp. 79-5032 is not applicable in exempting the county fair association levy from the aggregate limit.


Therefore, the amount that the board of county commissioners decides to levy for the county fair association shall be included in the aggregate tax levy limit set forth in K.S.A. 1990 Supp. 79-5021 et seq. unless the county or the levy is exempted pursuant to K.S.A. 79-5029 (submit to the voters the question of suspending or expanding the tax lid by election), K.S.A. 79-5030 (apply to the state board of tax appeals for authority to increase the taxes), or K.S.A. 1990 Supp. 79-5036 (use of home rule to exempt taxing unit from the lid or modify the provisions of the levy limit laws).

Very truly yours,



ROBERT T. STEPHAN

ATTORNEY GENERAL OF KANSAS



Mary Jane Stattelmann

Mary Jane Stattelmann  
Assistant Attorney General