



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

December 20, 1985

ATTORNEY GENERAL OPINION NO. 85-180

Robert G. Frey
Haskell County Counselor
412 N. Washington
Liberal, Kansas 67901

Re: Taxation--Retailers' Sales Tax--Tax Imposed;
Admissions to County Free Fair

Synopsis: Gross receipts from the sale of admissions to the Haskell County Free Fair are taxable pursuant to K.S.A. 79-3603(e). However, gross receipts from fees charged by political subdivisions, which includes the fair, for participation in sports, games and other recreational activities are excluded from taxation by the same subsection. Cited herein: K.S.A. 2-125; 2-132; 79-3602; as amended by L. 1985, ch. 330, §1, 79-3603.

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Dear Mr. Frey:

As Haskell County Counselor, you request our opinion regarding the application of K.S.A. 79-3603(e) to the Haskell County Free Fair. Specifically, you inquire whether receipts from the sale of admissions to such a fair would be exempted from taxation as "gross receipts received from fees and charges by political subdivisions of the state of Kansas for participation in sports, games and other recreational activities." In your request you indicate that the Haskell County Free Fair is organized and operated pursuant to K.S.A. 2-132, and as such appears to

qualify as a "political subdivision" as defined in K.S.A. 79-3602(n), as amended by L. 1985, ch. 330, §1.

K.S.A. 79-3603 provides in pertinent part as follows:

"For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax as follows:

. . . .

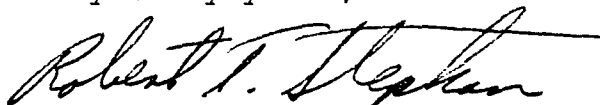
"(e) a tax at the rate of 3% upon the gross receipts from the sale of admissions to any place providing amusement, entertainment, or recreation services including admissions to state, county, district, and local fairs, but said tax shall not be levied and collected upon the gross receipts received from fees and charges by political subdivisions of the state of Kansas for participation in sports, games and other recreational activities; . . ."
(Emphasis added.)

In our opinion, this statute clearly requires that sales tax be paid on the gross receipts from the sale of admissions to fairs, which term includes Haskell County Free Fair. See K.S.A. 2-125(a) and 2-132. The proviso in K.S.A. 79-3603(e) merely exempts gross receipts from fees charged for participation in certain activities. In the context of a county fair, this could include any fees imposed on participants in rodeo contests, demolition derbys, etc.

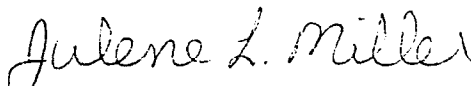
Grauer v. Director of Revenue, 193 Kan. 605, 609 (1964), discusses the difference between "admissions" and "participation" in conjunction with K.S.A. 79-3603(e). This case, together with the precise language of the statute in question, makes it clear that while admission fees are taxable, participation fees are

not, with the participants being those entered in the sports, games or other activities as contestants.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Assistant Attorney General

RTS:JSS:JLM:jm