

1975 S.C. Op. Atty. Gen. 247 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4200, 1975 WL 22497

Office of the Attorney General

State of South Carolina

Opinion No. 4200

November 24, 1975

***1 1. The Patriots Point Development Authority is required to collect admissions tax to the Naval and Maritime Museum in Charleston.**

2. The Authority is required to collect and remit sales tax on food, beverages, souvenirs and other items sold at the park or museum.

Legal Counsel

Patriots Point Development Authority

You have raised the following questions:

1. Is the admissions tax imposed by Section 65–802 of the South Carolina Code of Laws required upon tickets sold by the Patriots Point Development Authority for admissions to the Naval and Maritime Museum at Charleston?
2. Is the Patriots Point Development Authority required to collect sales tax on food, beverages, souvenirs and other items sold to the public at the park or museum?

Section 65–802 of the Code found in Article 9 of the Chapter 11 provides for the admissions tax and also provides for certain exemptions from the tax. All admissions are generally subject to the tax unless specifically exempted. In an opinion dated June 22, 1970, this office advised that the University of South Carolina was required to collect the admission tax upon admissions which it charged to places of amusement. Following this opinion, on September 28, 1973, the Department of Parks, Recreation and Tourism, a State agency, was advised that it was required to collect admissions tax upon the events which it sponsors. On April 18, 1974, the Riverbanks Zoological Park was advised also that it would be required to collect the admissions tax. A copy of each of these opinions is being forwarded with this opinion. In each of the above opinions the primary consideration was whether or not a State agency or a political subdivision of the State would be required to collect and remit the admissions tax.

The Patriots Point Development Authority was authorized and created by Act No. 116 of the 1973 General Assembly. Subsection 6 along with other sections states that it is an instrumentality of the State with powers of a body corporate and politic. As such, the three opinions previously issued are controlling upon the issue. It is therefore our conclusion that the tax must be paid upon admissions charged by the Authority.

The second question you have presented relates to the State sales tax. This tax is imposed by the provisions of Chapter 17 of Title 65 of the Code of Laws. Section 65–1356 defines the word ‘person’ as used in the chapter to include the State and any of its agencies, instrumentalities, authorities and political subdivisions. There have been several opinions of this office recognizing that State agencies are not exempt from its provisions. See opinion dated February 14, 1963 and October 16, 1963. In addition, Sales Tax Regulation 102 of the Tax Commission, dated April 28, 1965, provides that sales by a State agency of tangible personal property shall be considered retail sales subject to the tax. This regulation further states the requirement that a State agency is required to be licensed as a retailer under the terms and provisions of the Sales and Use Tax Act.

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