

Bulletin



Comptroller of Maryland • Revenue Administration Division • 110 Carroll Street • Annapolis, Maryland 21411
410-767-1300 (Baltimore area) or 1-800-492-1751 (elsewhere in Maryland)
E-mail: taxhelp@comp.state.md.us • World Wide Web: www.marylandtaxes.com

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Admissions and Amusement Tax Law: Comptroller v. Johns Hopkins University

The Maryland Court of Special Appeals recently decided that gross receipts derived from admissions to intercollegiate athletic events at Johns Hopkins University were not subject to the admissions and amusement taxes. The Court took a fact specific approach to its determination.

Gross receipts from charges for admission to an intercollegiate athletic event are subject to the admissions and amusement tax unless they are used exclusively for an educational purpose. The controlling statute, Tax-Gen. Art §4-103(b)(4)(i), states:

The admissions and amusement tax may not be imposed by a county or municipal corporation on the gross receipts:...(4) derived from any charge for admission or for merchandise, refreshments, or a service, if the gross receipts are used *exclusively* for: (i) a charitable, educational, or religious purpose... (emphasis added).

In deciding that the gross receipts were used exclusively for an educational purpose and, therefore, not subject to the admissions and amusement tax, the Court considered the totality of the circumstances, taking into consideration who it concluded benefited from the gross receipts and how those benefits were derived.

On the specific facts of this case, the Court determined that intercollegiate sports at Johns Hopkins University have educational benefits. Below is a list of some of the factors presented for the Court's consideration:

- the university-owned athletic field is available for use by all students and faculty, as well as the community;
- the field is not used solely for intercollegiate athletic events, but is also used for commencement, ROTC, club sports, intramural sports, recreational sports, and fitness;
- approximately 50 percent of the student population participates in some type of athletics;
- the gross receipts are not used to pay for uniforms and equipment for intercollegiate athletics;
- intercollegiate athletics at the university are ranked as highly as academics;
- intercollegiate athletic contests are well-attended and create a lot of school spirit on campus;
- many student-athletes are recruited by employers because of character traits learned through athletics, such as leadership, discipline, confidence, and perseverance;
- the student-athletes have higher GPA's and graduation rates than the general student population overall;
- the intercollegiate athletic contests are integral to the university's identity; and
- the federal government has recognized that intercollegiate athletics at the university serve an educational purpose.

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Other factors to consider include:

- physical education is a requirement of the curriculum;
- the gross receipts are deposited in the general fund of the school; and
- participation in athletics is open to all students.

The above list is not all-inclusive. Nor is any one factor necessarily more important than another. There is no minimum number of such factors that must be present. Taxpayers are cautioned not to automatically assume that, because the activity at issue is an intercollegiate athletic event, the admissions and amusement tax does not apply. Qualification for the exclusion will turn on the facts and circumstances of the particular situation.

Taxpayers who believe that they fall within this ruling and are entitled to a refund of admissions and amusement taxes previously paid should file a refund claim form and include documentation regarding the above factors in their specific situation. Completed claims should be forwarded to Comptroller of Maryland, Refund Supervisor, 301 W. Preston Street, Room 303, Baltimore, MD 21201. Questions regarding this issue should be directed to the refund supervisor at 410-767-1538 in the Baltimore area or toll free 1-800-492-1752 elsewhere.

Comptroller v. Johns Hopkins University, 186 MD 169, 973 A.2d 256 (2009)