

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-82(47)S  
Sales Tax  
December 22, 1982

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S820319A

On March 19, 1982 a Petition for Advisory Opinion was received from Syracuse University, Office of the Comptroller, Skytop Offices, Syracuse, New York 13210.

The issue raised is whether certain payments made to Petitioner constitute admission charges subject to sales tax imposed under Article 28 of the Tax Law.

I

Petitioner instituted a capital fund drive in 1977 (the "Manley Plan") to help pay for the installation of new seats in the Manley Field House. Under the Manley Plan, contributions of \$150 were to be made, payable either as a lump sum or in three annual installments of \$50. Contributions were made by completing a pledge card, furnished by Petitioner, and mailing it to Petitioner along with the payment. The pledge card contained the following statement: "I want to be a part of the new Manley Seating Plan. I agree to purchase Syracuse University Basketball season tickets for the next three seasons and I will contribute \$50.00 per seat annually for the next three seasons with options thereafter." Contributors under the Manley Plan received priority in purchasing season tickets in a distinct preferred seating section in the arena. In addition, a contributor was guaranteed the same seat for three years if he purchased season tickets for each of those years.

The contributions did not entitle contributors to the use of a seat. Contributors had to purchase season tickets at the same price paid by non-contributors. No refunds of the contributions were made if a contributor did not purchase season tickets. It was provided that non-contributors could purchase season tickets in the preferred seating section, but only if preferred seats were available after contributors had exercised their prior right to purchase season tickets. Due to the demand for season tickets by contributors, no non-contributors were able to purchase season tickets in the preferred seating section. On infrequent occasions non-contributors purchased tickets in the preferred seating section for individual games when a seat became available due to a contributor's cancellation or some other reason.

Section 1105(f)(1) of the Tax Law imposes a sales tax on:

"Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, . . . ."

Section 527.10(b)(1)(i) of the Sales and Use Tax Regulations defines the term admission charge as "the amount paid for admissions . . . ."

It is concluded that the \$150 contributions do not constitute admission charges within the meaning and intent of section 1105(f)(1) of the Tax Law. Such contributions do not entitle the contributor to a seat, but merely grant him the right to purchase a seat at the same price applicable to non-contributors.

## II

In 1978 Petitioner instituted a capital fund drive (the "Carrier Dome Plan") to raise funds for the construction of a domed stadium. Contributions were made, via pledge cards, in amounts of \$1,000, \$500, \$300 and \$150. The pledge card indicated that the amount of the contribution determined the location of the seats that could be purchased by a contributor on a season basis. Contributions could be paid in a lump sum or in annual installments over three or five years. Contributors received the exclusive right to purchase season tickets in designated areas of the new stadium containing favorable seat locations. Contributors were guaranteed the same seat for five years if they purchased season tickets for each of those years. It is to be noted that seats located other than in such designated areas could be purchased on a season basis by non-contributors.

Contributors had to purchase season tickets at the same price paid by non-contributors in order to obtain seats in the reserved sections. It is to be noted that all tickets for athletic events held in the Carrier Dome are sold at a uniform price regardless of the location of the seat. Non-contributors could purchase tickets for seats in the reserved sections on an individual game basis. Such sales to non-contributors occurred with respect to most of the football games held in the new stadium, as well as virtually all of the basketball games. As a general rule contributors did not receive refunds of their contributions if they did not purchase season tickets.

It is concluded that contributions made under the Carrier Dome Plan, which fall within the category of contributions to charitable or educational institutions, do not constitute admission charges subject to tax under section 1105(f)(1) of the Tax Law, based on the same considerations applicable in the case of the Manley Plan.

DATED: December 3, 1982

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau