

resort tax levy is to be kept in a fund separate from the general fund and such levy is to be used solely for the promotion of the tourist industry by such means as publicity, advertising, promotional events, etc.

There can be no question that the purchase of advertising in such brochures is an authorized purpose under both Ch. 67-930, *supra*, and §43 1/2, Code of the City of Miami Beach and is, likewise, a statutorily authorized *municipal purpose* which the courts will not interfere with unless clearly erroneous. *City of Jacksonville v. Oldham*, 150 So. 618 (Fla. 1933). The use of the taxing power and expenditure of tax revenues by a local governmental body for advertising, promotion, and publicity, has been repeatedly held to be a valid "municipal purpose." *Miller v. Ryan*, 54 So.2d 60 (Fla. 1951); *City of Fernandina v. State*, 197 So. 454 (Fla. 1940); *C. V. Floyd Fruit Company v. Florida Citrus Commission*, 175 So. 248 (Fla. 1937); *City of Jacksonville v. Oldham*, *supra*; *City of DeLand v. Moorehead*, 119 So. 117 (Fla. 1928); *Earle v. Dade County*, 109 So. 331 (Fla. 1926). *Accord*: Attorney General Opinion 067-47. The advertising in question is *specifically* authorized so long as the purpose is the enhancement or promotion of tourism within the city.

Even though the questioned purchase of advertising space would incidentally benefit the hotels featured in the travel brochures, the primary benefit of the advertising clearly accrues to the city in the form of increased tourism which has been continually held to be a valid public purpose. *State v. Reedy Creek Improvement District*, 216 So. 2d 202 (Fla. 1968); *State v. Daytona Beach Racing & Rec. Fac. Dist.*, 89 So.2d 34 (Fla. 1956); *State v. Inter-American Center Authority*, 84 So.2d 9 (Fla. 1955); *State v. Escambia County*, 52 So.2d 125 (Fla. 1951).

As stated by the court in *State v. Board of Control*, 66 So.2d 209, 219 (Fla. 1953):

The mere fact that some one [sic] engaged in private business for private gain will be benefited by every public improvement . . . should not and does not deprive such improvement of its public character or detract from the fact that it primarily serves a public purpose. An incidental use or benefit which may be of some private benefit is not the proper test in determining whether or not the project is for a public purpose.

Although the purchase of the advertising space might violate Art. VII, §10, State Const., which prohibits the use of the city's taxing power or credit to aid private individuals or corporations if such advertising space was purchased primarily to benefit the private business or commercial interests involved, this is clearly not the intention nor the result of such advertising purchases by the authority nor of Ch. 67-930, *supra*, which specifically authorizes and requires expenditure of these tax revenues for "enhancement of tourism, publicity and advertising purposes." The advertising space is intended solely to encourage and develop those purposes spelled out in the enabling act, Ch. 67-930.

In consideration of the foregoing, I am of the opinion that the expenditure of the municipal resort tax revenues to purchase advertising in such travel brochures to extol the virtues of Miami Beach as a tourist center and to promote the tourist industry within the city is an authorized expenditure of public funds for a municipal purpose and is not violative of Art. VII, §10, State Const.

073-395—October 24, 1973

TAXATION

COUNTY TAX COLLECTOR'S RESPONSIBILITY FOR COLLECTING SALES TAXES

To: Lester L. Bauer, Broward County Tax Collector, Fort Lauderdale

Prepared by: J. Kendrick Tucker, Assistant Attorney General

QUESTION:

Is the county tax collector legislatively designated the agent of the Department of Revenue for the purposes of collecting taxes under, and enforcing, the "Florida Revenue Act of 1949" by virtue of the passage of Ch. 71-360, Laws of Florida [Ch. 212, F. S.]?

SUMMARY:

The county tax collectors are not designated the agents of the Department of Revenue for sales tax collection and enforcement except when county tax collectors receive applications for title or registration certificates or licenses for boats or vehicles pursuant to §212.06 (10), F. S.

Your question is answered in the negative with the exception as noted below. Section 212.06(10), F. S. [Ch. 71-360, Laws of Florida], provides as follows:

No title certificate shall be issued on any boat or any vehicle, or, if no title is required by law, no license or registration shall be issued for any boat or vehicle, unless there be filed with such application for title certificate or license or registration certificate a receipt issued by an authorized dealer or a designated agent of the department of revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. *For the purpose of enforcing this provision*, all county tax collectors . . . are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. . . . (Emphasis supplied.)

By its terms, the above-quoted statute imposes upon the county tax collector the duty not to issue a title certificate, license, or registration for any boat or vehicle unless the application for same includes a receipt issued by a dealer or agent of the Department of Revenue showing the payment of the sales tax. Since the county tax collectors are specifically named as agents for the department in enforcing §212.06, F. S., I conclude that they may be required by the department to collect the sales tax and remit same to the department. *Cf.* §§320.03, 320.04, and 371.051, F. S.

However, as stated in §212.06, *supra*, tax collectors are required to perform duties of insuring the payment of the sales tax *only for the purpose of enforcing* §212.06. I find nothing in Ch. 212, F. S., or any other law, that attempts to impose on the county tax collectors the duty of collecting or enforcing other portions of the state sales tax law.

073-396—October 24, 1973

STANDARDS OF CONDUCT

LEGISLATOR AS EMPLOYER OF FIRM—FILING STATEMENT
OF INTEREST; STATE CONTRACT

To: State Legislator

Prepared by: Rebecca Bowles Hawkins, Assistant Attorney General

QUESTIONS:

1. Is a legislator required by §112.313 (2), F. S., to file a sworn statement with the Department of State disclosing his interest as chief engineer of an engineering company?
2. May the engineering company by which a legislator is