Blogs
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City Cannot Compel State University to Collect and Remit City Taxes

UPDATE: The California Supreme Court has granted review of this case. The issue before the court is: "Can a charter city require state universities that operate paid parking lots within the city to comply with an ordinance that requires parking lot operators to collect from their customers and remit to the city a tax on the fee charged for a parking space?"

In *City and County of San Francisco v. Regents of the University of California* (1st Dist., No. 144500, May 25, 2017), the court of appeal considered whether a city had the power to compel state universities that operate parking lots in the city to collect taxes from the parking users and remit them to the city. This case displayed some of the complexities in the distribution of powers between states and local governments, including the issues of preemption, sovereign immunity, and the local taxing power. Ultimately, the court concluded the city could not compel such action by a state entity. **Background** At issue here was the application of San Francisco's parking lot tax ordinance. The ordinance imposes the tax on parking lot users and requires parking lot operators to collect the tax. Under the ordinance, operators must hold the taxes and periodically remit them to the city. Operators are liable for failing to collect the tax. While the ordinance provides that it is not to be construed as imposing a tax on the state or state entities, it nonetheless requires such entities to collect, report, and remit the tax and pay any taxes they fail to collect. In 2011, San Francisco directed several state universities, including the University of California, to collect and remit the parking taxes. The universities refused, after which San Francisco sought a writ of mandate to force compliance.

Majority opinion According to the majority, the issue presented by the case was a conflict between the city's constitutional power to tax and the longstanding doctrine that exempts state entities from local regulation. This doctrine is based on the California Supreme Court's 1956 decision in *Hall v. City of Taft* and its progeny under which local jurisdictions are barred from regulating state entities engaged in governmental activities. After reviewing the case law, the majority determined that the doctrine was straightforward—it exempts state entities from otherwise-valid local regulation when they are engaged in governmental activities unless a constitutional provision or statute says they are not exempt. The majority likewise found the application of the doctrine to this case to be straightforward: providing parking for students, faculty, staff, and visitors was integral to the universities' educational purposes and was further authorized by state statute. Therefore, under *Hall*, the city was precluded from forcing the universities to collect and remit taxes imposed on users of the universities' parking facilities. **The Dissent** The dissent argued that the applicability of the *Hall* doctrine was far from straightforward, as *Hall* and its progeny involved situations where a municipality was attempting to exert regulatory control directly over state entities. These cases, according to the dissent, differed markedly from this case where the municipality was imposing the tax on third parties transacting with state entities. The dissent found that the situation presented in this case was more similar to cases addressing the scope of the municipal taxing power and urged a more "nuanced" approach that would balance the state's sovereign interests with the municipality's power to tax third parties.