

10-1-1958

Municipal Corporations—Statutory Limitation of Amount of Sales and Utility Taxes Imposed by Local Government Units

Buffalo Law Review

Follow this and additional works at: <https://digitalcommons.law.buffalo.edu/buffalolawreview>



Part of the [State and Local Government Law Commons](#)

Recommended Citation

Buffalo Law Review, *Municipal Corporations—Statutory Limitation of Amount of Sales and Utility Taxes Imposed by Local Government Units*, 8 Buff. L. Rev. 168 (1958).

Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol8/iss1/104>

This The Court of Appeals Term is brought to you for free and open access by the Law Journals at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in Buffalo Law Review by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact lawscholar@buffalo.edu.

proper apportionment of the county's capital expenditures, and thus, the county would be incurring a debt for a non-county purpose in violation of the Constitutional prohibition.

In unanimously affirming a dismissal of the complaint by the Supreme Court,⁵⁹ the Court of Appeals held that where, as in the instant case, the establishment of a community college is of "primary local interest", it is a county purpose sufficient to comply with the requirements of the Constitutional provision, notwithstanding that a disproportionate number of non-residents may also benefit. The Court's conclusion was based on previous cases deciding that higher education is a valid municipal purpose,⁶⁰ that a precise severability of respective interests is not required,⁶¹ and other cases which indicate that a valid municipal purpose in a project is not invalidated by the presence of an additional larger purpose.⁶² The Court pointed out that there is an optimum size for an educational plant, below which its operation would be unduly expensive, and whether present or future needs justify the proposed size is a matter to be primarily determined by the trustees of the State University and the local Board of Supervisors.

Statutory Limitation of Amount of Sales and Utility Taxes Imposed by Local Government Units

The Legislature, by statute,⁶³ allows the imposition of certain types of taxes by counties and cities, the aggregate, however, not to exceed a fixed percentage of the tax base (*e.g.* amount of total sale price). So as to avoid the possibility of one governmental unit or the other preempting the field in a given locality, the act establishes a system of "prior rights" as to various taxes, so that in the event taxes which are imposed by the two governments exceed the limit, that unit not having the "prior right" should reduce its tax or, if necessary, abolish it. Where both the City of Buffalo and the County of Erie had prior rights to the respective taxes (utility tax and sales tax) involved, both were reduced proportionately so as to bring the total within the permitted aggregate.⁶⁴

59. 9 Misc.2d 1082, 171 N.Y.S.2d 49. (Sup. Ct. 1958).

60. *College of City of New York v. Hylan*, 205 App.Div. 372, 199 N.Y.Supp. 804 (1st Dep't 1923), *aff'd* 236 N. Y. 594, 142 N.E. 297 (1923); *Union Free School District v. Town of Rye*, 280 N.Y. 469, 21 N.E.2d 681 (1939).

61. *Cf. In re Bryant*, 152 N.Y. 412, 46 N.E. 851 (1897); *Rivet v. Bierdick*, 255 App.Div. 131, 6 N.Y.S.2d 79 (1938).

62. *Gordon v. Cornes*, 47 N.Y. 608 (1872); *Sun Printing & Publishing Ass'n. v. Mayor*, *supra* note 54; *Hesse v. Roth*, 249 N.Y. 436, 164 N.E. 342 (1928).

63. Laws of 1947, ch. 278, as amended by Laws of 1948, ch. 651, and Laws of 1950, ch. 589.

64. *County of Erie v. City of Buffalo*, 4 N.Y.2d 96, 172 N.Y.S.2d 586 (1958).