



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

November 18, 1971

FILE NO. S-367

**TAXATION:**  
County service tax

Honorable Basil G. Greanias  
State's Attorney of Macon County  
307 County Building  
Decatur, Illinois 62523

Dear Mr. Greanias:

I have your letter of October 4, 1971, which  
reads:

"I have received a copy of the above opinion \*  
issued by your office regarding contracts be-  
tween the County Treasurer and taxing bodies,  
wherein it is your opinion that the same is  
not permitted by Article VII, Section 9,  
Illinois Constitution of 1970.

I have attached hereto a proposed copy of an  
Ordinance providing for a county service  
tax rather than a contractual situation.  
It would seem that the County would be able  
to recover the costs of providing this service  
provided that the service fee charged bears  
a direct relationship to the service provided.

\*Illinois Attorney General Opinion No. S-347, September 24, 1971

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I have attached hereto a copy of my letter along with the copy of the proposed Ordinance.

Would you please advise me as to your opinion regarding this important matter at your earliest opportunity?"

It is my opinion that your proposed ordinance is invalid. In preparing that ordinance you relied upon Sections 7 and 9 of Article VII of the Illinois Constitution of 1970.

Section 7 reads in part:

"Counties and municipalities which are not home rule units shall have only powers granted to them by law and the powers \* \* \* (6) to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services." (Emphasis added)

Section 9 reads in part:

"(a) Compensation of officers and employees and the office expenses of units of local government shall not be paid from fees collected. Fees may be collected as provided by law and by ordinance and shall be deposited upon receipt with the treasurer of the unit. Fees shall not be based upon funds disbursed or collected, nor upon the levy or extension of taxes. \* \* \*" (Emphasis added)

As is evident from the first sentence of Section 7 your county, which is not a home rule unit, has only those powers granted by law which is to say such powers as the legislature grants by statute and the powers listed in the remaining portion of Section 7.

Your proposed ordinance does not provide a tax "upon areas", as provided in Section 7, but rather it would be an attempt by the county to tax other units of local government. There is no authority in the Constitution or the statutes which authorize the levy of such a tax by a county upon another unit of local government.

The second sentence of Section 9(a) authorizes the collection of fees, but only as provided by State law or by a county ordinance authorized by a State law. That sentence standing alone is not a grant of authority to counties to assess and collect the fees that you propose. The authority to enact such an ordinance must be found elsewhere in the Constitution or the statutes. There is

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no provision in either which authorizes a county to  
enact an ordinance such as you propose.

Very truly yours,

A T T O R N E Y G E N E R A L