



# **Public Universities Immune from Complying with Local Parking Tax for Operating Parking Facilities Within Their Governmental Capacities**

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The San Francisco Business and Tax Regulations ("Tax Code") imposes a 25% tax on people who pay any fees for a parking space at any lot, building, or structure where vehicles may be parked for a fee ("parking station") within San Francisco ("the City"). The Tax Code places a duty on parking station operators to collect the taxes, and then periodically send the collected taxes to the City. The University of California San Francisco ("UCSF"), the University of California Hastings College of the Law ("UC Hastings"), and the California State University ("CSU") each operate parking stations in San Francisco, but none of them collect and send parking taxes to the City.

The City asked the court to issue an order to force the universities to collect and send parking taxes to the City under its Tax Code. The court denied the City's request because it agreed with the universities' argument that they are immune as state agencies from complying with local tax laws.

To determine whether the universities are exempt from the local parking tax due to their nature as state agencies, the court examined whether each university established that it was acting within its "governmental capacity" rather than a proprietary capacity with respect to operating its parking stations, and that neither the state Constitution nor statutes expressly consent to this type of local regulation. The court found that each university met this burden.

The Education Code expressly gives CSU the authority to operate parking and other transportation facilities for university officers, employees, students, or other others, and fees collected are put toward acquisition, construction, maintenance, and operation of parking facilities and the development of alternative transportation methods for CSU officers, employees, and students. The court was also persuaded by CSU's argument that operating parking facilities was integral to its educational mission and the university's functioning because available parking for students, staff, and visitors is scarce in San Francisco's urban environment.

Similarly, UCSF's parking facilities are critical to meeting the clinical and life-saving mission of UCSF and the hospitals it operates spread throughout the City. The parking facilities are used for staff, faculty, students, researchers, patients, and visitors. Further, UCSF does not operate parking as a profit-making enterprise, and fees only support transportation-related expenses, such as funding a shuttle bus service for students, faculty, and staff between its various locations.

UC Hastings operates a parking garage near the law school, which is in an urban area with limited street parking. The garage provides access to the campus for students, faculty, staff, and visitors attending events at UC Hastings, and plays an important role in UC Hastings' effort to maintain a safe and secure environment for its students. The library is open until 11:00 p.m. and even later during finals, and the garage encourages continued use of campus facilities for studying by providing a safe, well-lit and convenient way to leave campus at night.

The court concluded that the universities each met their burden to prove they were acting within their governmental capacity in operating their parking facilities. The court rejected arguments by the City that it had a constitutional right to tax because it was a charter city because that was a separate issue from the universities' immunity as state agencies. The court was also unpersuaded by an offer from the City to accept taxes from the universities including deductions directly from the taxes to pay for the administrative costs of collecting, tracking, and submitting the taxes to the City.

***Note:***

*This case is specific to CSU, the UC Regents, and UC Hastings within the context of San Francisco's parking taxes, and the analysis and outcome could differ for a district or a different type of local tax. However, it does demonstrate the principle that districts may be immune from certain local regulations based on their status as state entities rather than local entities. It is important to note that each university here was able to establish that it operated its parking facilities in furtherance of its government capacity as institutions of learning (and providing health care, in UCSF's case). If a university had been running its parking facilities as a profit-making venture in a proprietary capacity, the court could have ruled against that university despite its status as a state entity.*

*City and County of San Francisco v. Regents of the University of California* (Sup. Ct. S.F. City and County, 2014, No. CPF-14-513434)