

Committee Opinion
June 14, 1994

LEGAL ETHICS OPINION 1595

SHARING LEGAL FEES WITH A
NONLAWYER: ATTORNEY LICENSING
FEE DETERMINED BY ATTORNEY'S
LEGAL FEES.

You have presented a hypothetical situation in which a town desires to charge attorneys a license fee which is based solely upon the amount of legal fees generated by the attorney. The license fee would be a percentage of any and all fees generated anywhere by the resident attorney.

You have asked the committee to opine whether, under the facts of the inquiry, an attorney may ethically split fees with a town.

The appropriate and controlling Disciplinary Rule related to your inquiry is DR:3-102(A), which provides that a lawyer shall not share legal fees with a nonlawyer.

The committee is of the opinion, however, that it would not be ethically improper for an attorney to pay ordinary and customary gross receipts taxes assessed by a local or other government entity which has the statutory authority to collect taxes. The committee does not find such payment of a license tax, based on the total amount of monies earned, to be violative of the DR:3-102(A) prohibition against sharing fees with a nonlawyer. The committee believes that the thrust of the proscription in DR:3-102(A) is that a lawyer and a nonlawyer enter into a consensual arrangement whereby fees received from one or more clients are divided between them. Payment of a gross receipts tax, in common understanding, is not a consensual arrangement violative of DR:3-102(A).