

the tax, in the officers charged with collection of the tax and the use of the funds collected, said Section 2439 is repealed by said Chapter 91.

February 5, 1940.

Hon. W. A. Brown  
State Examiner  
The Capitol

Dear Mr. Brown:

You have submitted the following:

"Section 2434, R. C. M., 1935, provides that the various county treasurers shall collect theater licenses. Chapter 91 of the Session Laws of 1937 provides that the State Board of Equalization shall issue licenses to 'movie theaters'. We shall be pleased to have you advise us whether or not in your opinion the requirements of Section 2434 are repealed by the enactment of said Chapter 91 so far as 'movie theaters' are concerned."

Section 2439 and not Section 2434 is the statute dealing with movie theater licenses. See opinion of the Attorney General, Vol. 16, p. 17. Chapter 91, Laws of 1937, is in conflict with Section 2439 in that it does not exempt a city, town or village where the population does not exceed 1500, and further in that it computes the license fee on a percentage of the gross proceeds of sale, while Section 2439 fixes a flat fee of \$25.00 in all cities over 1500 population. Furthermore, Chapter 91 provides for the collection of the license fees by the State Board of Equalization and by the latter paid to the State Treasurer, who shall deposit all fees into the general fund; whereas, under Section 2420 the fees collected under section 2439 are to be paid to the county treasurer, 50% of which are to be retained by the county and the balance paid to the State Treasurer, 45% going to the general fund and 5% to the bounty fund.

In view of these conflicts (1) in the movie theaters to be taxed; (2) in the amount of the tax to be paid; (3) in the officers charged with collection; and (4) the use of the funds collected, it is my opinion that Section 2439 is repealed by Chapter 91, Laws of 1937, which, in Section 10, declares that all acts and parts of acts in conflict therewith are repealed.

Opinion No. 196.

**Licenses—Movie Theaters—Statutes—  
Repeal—Section 2439 Repealed  
By Chapter 91, Laws  
of 1937.**

HELD: Since Chapter 91, Laws of 1937 is in conflict with Section 2439, R. C. M., 1935, in respect to the movie theaters to be taxed, in the amount of