

Opinion No. 20.**Taxation—Admission Tax—North
Montana State Fair—
Strip Tickets**

Held: The tax properly payable on a set of five strip tickets to the North Montana State Fair at Great Falls, is five times the tax that is or would be due on five single admission tickets.

March 16, 1943.

Mr. John D. Stafford
County Attorney
Cascade County
Great Falls, Montana

Dear Mr. Stafford:

You have requested my opinion concerning the federal admission tax properly payable upon strip tickets usually sold for general admission at the North Montana State Fair in Great Falls. You have explained the situation is as follows:

For a long period of years the fair management has offered for sale during a period of a month before the opening of the fair and including the day before the opening of the fair, but not thereafter, so-called strip tickets at the rate of five (5) tickets for one dollar. These tickets may be used for general admission to the fair at any time of the day. No other admission tickets are offered for sale or sold during the period when such strip tickets are sold. During such period the strip tickets represent the regular admission tickets to the fair. Every person desiring to attend the fair is afforded the opportunity to buy strip admission tickets and by advertisement in the newspapers and on the radio the general public is urged to buy strip tickets. Every possible effort is used by the fair manage-

ment and the organizations selling the strip tickets to get such admission tickets into the hands of every person intending or desiring to attend the fair. It would be entirely possible that no other form of ticket would be used by any person in attendance.

After the fair commences, persons without strip tickets are required to pay fifty cents for general admission in the afternoon and twenty-five cents general admission in the evening. Such tickets are no more regular admission tickets than are the strip tickets purchased before the fair opens.

The federal tax on admissions, is found in U. S. C. A., Title 26, Section 1700 (a), 56 Stat. —; and reads, so far as pertinent here, as follows:

"1700. Tax. There shall be levied, assessed, collected, and paid—

"(a) (1) Single or season ticket; subscriptions—(1) Rate. A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription. In the case of persons . . . admitted free or at reduced rates to any place at any time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. . . ."

"(a) (2) The tax imposed under paragraph (1) shall be paid by the person paying for such admission."

It would appear from these provisions the statute is not to prohibit a reduced price, but rather to permit such reduced price and require the same tax to be paid as is paid on a regular admission price, which price would be determined at the time a purchaser seeks admission and based on the general admission price then charged for a single admission; particularly is this true in view of the fact that the purchaser, and not the Fair, pays the tax, and each purchaser should be treated alike, so that one purchaser would not be paying a smaller tax than another person, where both are admitted to the same exhibition or entertainment.

It is to be further noted that Section 1700 (a), U. S. C. A., Title 26, by its

title and by its wording, contemplates two types of admissions—single admissions, and season tickets and subscriptions. This was recognized by the Attorney General of the United States. In 32, Report and Official Opinions of the Attorney General, 88, 91, it is said:

"I think the clear purpose of the Act is to treat as established two prices of admission; One when obtained by purchasing a "single ticket, and the other when obtained by purchasing a season ticket. . . ."

Obviously, the strip ticket does not come in the contemplation of the meaning of season tickets or subscriptions.

"The amount paid for admission by season tickets is a fixed sum which entitles the holder to admission on definite dates to a series of scheduled attractions, or to admission at all times during the season, and the form of the ticket is not controlling.

"A subscription ticket is one which is issued to a person who subscribes a sum of money to the expense of an entertainment or who agrees to bear a portion of the expense thereof when the amount is ascertained." (Code of Federal Regulations of the United States, Title 26—Internal Revenue—page 814.)

As I understand the meaning and purpose of the strip tickets, they are five separate tickets which are attached together for convenience of sale as such. They will not entitle the holder to admission at all times during the fair, but will only entitle him to admission on five different occasions. The purpose is thus different from that of a season ticket. Clearly, a strip ticket is not a subscription.

The strip tickets, then, necessarily, come within the other established price of admission—that is, single admissions. The parts of the act cannot be reconciled unless this construction is given. Bearing out this construction, it is said in the Code of Federal Regulations, Title 26, page 811:

"The tax attaches to the amount paid for each admission separately, and, therefore, if two or more admissions are paid for at once, the total tax is determined by computing separately the tax on each admission by the adding together the taxes so

computed. In other words, the tax for 10 single admissions will always be ten times the tax for each single admission." (Emphasis mine.)

It is admitted the price of a single admission ticket is fifty cents or twenty-five cents, depending on whether the afternoon or evening program is attended. The tax properly payable, then, on a set of five strip tickets is five times the tax that would be due for five single admission tickets.

As has been noted, "on the amount paid for admission to any place" refers to the amount paid for each admission separately. The tax, therefore, cannot attach to the amount of one dollar paid for the set of strip tickets, for that amount is not the amount paid for each ticket separately.

It is therefore my opinion the tax properly payable on a set of five strip tickets to the North Montana State Fair at Great Falls, is five times the tax that is or would be due on five single admission tickets.

Sincerely yours
R. V. BOTTOMLY
Attorney General