



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

*Classified by
ww 762*

November 18, 1957

Hon. Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

OPINION NO. WW-322

Re: Whether State Admission
Taxes will accrue on
Admissions charged to
attend The Royal Ballet.

Dear Sir:

In connection with your request for an opinion from this office on the above captioned question, you have supplied us with the following facts.

The Royal Opera House Covent Gardens, Ltd., is a non-profit corporation organized under the English Companies Act with its principal office in London, England. Among its other activities, the corporation also presents The Royal Ballet. All the proceeds derived from the performances of The Royal Ballet inure to the general fund of Royal Opera House, which fund is subject to unlimited liability for the maintenance of the Sadler's Wells School in England.

Contracting through Hurok Attractions, Inc., referred to in the contract as "Artist's Manager", Royal Opera House entered into an agreement with Edna Saunders of Houston, Texas, referred to in the contract as "Local Manager". The contract stipulates that The Royal Ballet will give a stated number of concerts on stated dates; and the local manager agrees to furnish a theatre, a suitable piano and various services in connection with giving the concert. Paragraph 7 of the contract reads as follows:

"All proceeds from sale of tickets will be turned over to Artist's Manager for Covent Garden. Not later than curtain time of the day scheduled for the performance, Artist's Manager will pay to the Local Manager in return for his above mentioned services, the sum of Thirty Percent (30%) of the net receipts according to the attached scale of prices, the maximum payment to Local Manager to be Eleven Thousand Nine Hundred Dollars (\$11,900). Local Manager will not share

on any Federal or State Tax Exemption which may be awarded to the Company."

Article 7047a-19, Vernon's Civil Statutes, which levies the Admission Tax, contains the following exemption provision:

" . . . no tax shall be levied under this Act on any admission collected for dances, moving pictures, operas, plays and musical entertainments, all the proceeds of which inure exclusively to the benefit of State, religious, educational or charitable institutions, societies, or organizations, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual. . . ."

Although the contract fixes the amount of the Local Manager's compensation in terms of a percentage of the net receipts, it also fixes a maximum limitation as to the amount the local manager may receive. We think that it is immaterial that this compensation may be determined by a percentage of the net receipts. This is obviously an expense of production, and expenses of production must necessarily be met by the producing charitable corporation before any benefits can inure to the corporation. No part of the net earnings will inure to the benefit of a private individual in the sense prohibited by the statute. Therefore exemption should be accorded.

You ask whether the holding of Attorney General's Opinion No. WW-15 would prevent exemption in the instant case. That opinion was concerned with whether a tax is due on admissions charged for entertainment offered to the public by sponsoring organizations.

The opinion specifically held that where the sponsoring organization of a type eligible for exemption purchases the show outright and retains all of the proceeds from admissions, no tax is due; but that where such organization splits the admission charges on a percentage basis with the show, exemption would be denied. Language in the opinion stressing the significance of the use of the phrase "net proceeds" as opposed to the use of the phrase "all the proceeds" was not necessary to a determination of the questions there involved and should not be interpreted as meaning that exemption should be denied, if some of the proceeds are used to defray expenses of production.

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S U M M A R Y

No admission taxes will accrue on admissions charged to attend The Royal Ballet despite the fact that a local manager may receive a stated percentage of the net receipts because this payment is an expense of production.

Very truly yours

WILL WILSON
Attorney General

By *Marietta McGregor Payne*
Marietta McGregor Payne
Assistant

MMP/fb

APPROVED:

OPINION COMMITTEE

George P. Blackburn, Chairman

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REVIEWED FOR THE ATTORNEY GENERAL

By: James N. Ludlum