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November 19, 1975

Joan Surawski, Ex. Secretary — Boxing Commission

Phillip M. Kilmister, Assistant — Attorney General

Legal Opinion in re 8 M.R.S.A. § 111

In answer to your memorandum under date of November 7, 1975, it is my opinion that proceeds derived from the promotion of a boxing exhibition sponsored by two state correctional institutions, all of which will be donated to the athletic funds of said institutions, are subject to the imposition of a 3% gross receipts tax as set forth in 8 M.R.S.A. § 111.

The first sentence of section 111 of Title 8 reads as follows:

> "The promoter or promoters of all boxing contests or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the General Fund, a tax of 3% of the gross receipts from such contest or exhibition. . . ."

The above-designated tax is an "occupational tax" rather than a "sales tax" or "licensing tax," and is imposed upon operators or promoters of boxing exhibitions by the State strictly as a revenue raising measure. The imposition of said tax is not dependent upon whether or not funds derived from the promotion of boxing exhibitions are designated as income to the promoters or earmarked as donative distributions.

As you are well aware, the only boxing exhibitions or contests over which the Commission has no jurisdiction, and for which no gross receipts tax would be due, are those exhibitions or contests conducted under the direct auspices of educational institutions, as delineated in 8 M.R.S.A. § 106(2).

Phillip M. Kilmister
Assistant Attorney General

PMK:mfe