



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

GERALD C. MANN
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ATTORNEY GENERAL

Hon. George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

Dear Sir:

Opinion No. 0-97
Re: Prizes taxable under Article
7047f, Vernon's Annotated
Civil Statutes of Texas.

Your letter requesting our opinion sets forth the following facts:

"The Houston Chronicle in an ad appearing in their Sunday, December 4 issue advertised 40 theatre tickets to the Majestic Theatre in Houston and a \$5.00 merchandise prize to be awarded to the winners of a contest which they operated under the name of 'Find-the-Line Contest'.

"The plan of the contest was as follows: Five or six lines which were selected from the advertisements in Everybody's Gift Guide were printed in the ad. The participants in the contest were asked to find the ad or ads in which each of such lines appeared. They were instructed to keep the ads or cut them out, indicating which line went in which ad. The twenty nearest correct and neatest solutions received were to be awarded tickets to the Majestic Theatre and the best answer was to be awarded the \$5.00 merchandise prize.

"I am attaching hereto a copy of the ad as it appeared in the paper."

You request our opinion as to whether the 20% prize tax levied by Article 7047f, Vernon's Annotated Civil Statutes, is due upon such prizes or awards.

For your convenience we set out below the pertinent portion of Article 7047f:

"(a) Every person, firm, or corporation conducting a theatre, place of amusement, or any business enterprise in connection with the operation of which a prize in the form of money or something of value is offered or given to one or more patrons of such theatre, place of amusement, or business enterprise, and not given to all patrons thereof paying the same charge for any certain service, commodity, or entertainment, shall make a verified monthly report on the twenty-fifth day of each month to the Comptroller of Public Accounts of the State of Texas, showing the amount of money so given in prizes, and the value of all prizes or awards so given in connection with such business during the next preceding month.

"(b) There is hereby levied a tax equal to twenty per cent (20%) of the value of all such money, prizes, and awards given in connection with the operation of each and all of the foregoing business enterprises, and at the time of making the report to the Comptroller of Public Accounts, the owner or operator of any such business shall pay to the State Treasurer such tax upon the total amount of money, prizes, and awards so given during the next preceding month. * * *"

In the fact situation submitted to us, it is obvious that certain participants, in their efforts to win the prize offered, would exert more and better directed effort and would perform more services than others would. In other words, the services rendered to the paper in working out the contest would not be equal on the part of all contestants, but would be different in each instance, and the prizes being given to certain persons who had delivered an extra consideration, the case would fall within the exception contained in that part of the statute above underlined.

Your question is answered in the negative.

Very truly yours
ATTORNEY GENERAL OF TEXAS

GRL-MR-wc

APPROVED NOV 7, 1939

s/Gerald C. Mann

ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By s/BWB Chairman

By s/Glenn R. Lewis
Glenn R. Lewis
Assistant