



**THE ATTORNEY GENERAL
OF TEXAS**

GERALD C. MANN

ATTORNEY GENERAL

AUSTIN 11, TEXAS

April 24, 1939

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

*5-214
where conflict*

Dear Sir:

Opinion No. O-662
Re: Whether twenty per cent (20%)
taxes due under Article 7047f
under circumstances outlined.

We are in receipt of your letter of April 19, 1939, wherein you outline the following facts:

As an advertising scheme, General Mills Company sponsors contests for the purpose of increasing the sale of Gold Medal Flour. Such contest is conducted at the place of business of the Lauderdale-Knight Electric Company, 313 Pine Street, Texarkana. On the entry blank is printed the first four lines of a five line jingle. The last line is left blank for the contestant to fill in. The signed entry blank with the contestant's version of the fifth line must be accompanied by a sales slip showing a purchase of a sack of Gold Medal Kitchen Tested Flour, or a hand drawn facsimile of the Gold Medal Kitchen Tested Flour Sack.

First, second and third prizes are offered to the persons submitting the best entries for the fifth line of the jingle. The contest rules advise that originality, uniqueness, and advertising value will be considered by the judges in reaching their decision. It is further provided that the winners thereby permit use of winning last line and their names and addresses in radio or printed advertising, should the sponsors decide to make use of them.

You request our opinion as to whether the prizes are taxable under Article 7047f, Revised Civil Statutes of Texas, and if so, whether the General Mills Company or the Lauderdale-Knight Electric Company is responsible for the tax.

In our opinion No. O-378, addressed to you, dated March 16, 1939, we pointed out that under the terms of Article 7047f no tax is due where the person receiving the prize has paid a charge additional to that paid by other patrons. We further expressed the opinion that the work charge might include money, or any other article of value, or it might include skilled or unskilled labor, a poem, essay or motto, a painting or other piece of art. In short, that anything of value would suffice, provided the same met the test of being a bona fide consideration passing from the

Hon. George H. Sheppard, page 2 (O-662)

receiver to the giver of the prize, a consideration not received by the giver from other patrons of the business. Without discussing the matter at length, we would point out to you that the three persons submitting the best fifth line for the jingle would be delivering consideration which the giver of the prizes would not be receiving from the other patrons.

Therefore, if the plan is conducted as advertised, no taxes will be due upon the prizes given away in connection with the same.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Glenn R. Lewis

Glenn R. Lewis
Assistant

GRL:LM:egw

APPROVED:
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS