kling and cleaning of such highways; and the purchase, rental and repair of street and highway equipment; and all thereof shall be budgeted as provided by law: * * *”

“A question concerning the expenditure of Motor Vehicle Highway Funds (commonly called the Gas Tax Funds) in a city of the second class has been presented to this office on which we desire your official opinion. This particular city wishes to install ornamental street lights on main cross thoroughfares and its is contended that such installation is, to a great extent, for traffic safety.

“Question: Would Section 36-2819 above quoted permit or authorize a city to install ornamental street lighting and pay the cost of same from the Motor Vehicle Highway Fund Distribution?”

In my opinion if the installation of the proposed ornamental street lighting is a matter of traffic safety it is within the permission of the statute, whether it is a matter of traffic safety is a question of fact to be determined in each instance from all the surrounding facts and circumstances.

OFFICIAL OPINION NO. 21

March 27, 1950.

Honorable Otto K. Jensen,
State Examiner,
State Board of Accounts,
304 State House,
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your request of March 6, 1950, for an official opinion which reads as follows:

“We have been asked to request an official opinion on a matter in controversy relative to Section 23, Chapter 93, Acts of 1931, Burns Supp. 63-223, which states:
"And shall also within the said time pay to the state treasury a tax of ten (10) per cent of the total gross receipts, exclusive of any federal tax paid thereon, from the sale of tickets of admission to such match or exhibition, which money derived from such tax shall be covered in the general treasury of the state."

"We have found a situation in which a promoter has had his tickets printed with the following information:

"Established price ______ $1.50
State tax ________________ .15
Federal tax ______________ .30

$1.95

"We would like to have your official opinion on whether the state tax collected pursuant to the above quoted statute should be calculated on $1.65 or on $1.50. I know of no provision for the passing on of the state gross income tax and this department has in the past considered that the tax be calculated on $1.65 rather than $1.50.

"We would like to have your official opinion regarding same."

There appears to be no ambiguity in the language of the statute quoted. The Indiana Supreme Court, in the case of Tucker v. Muesing (1941), 219 Ind. 527, 531 said that:

"* * * In case of ambiguity in statutes, there are certain rules of construction to which the court resorts in arriving at the intention of the Legislature, but such rules have no application to a statute that is free from ambiguity. * * *"

It is my opinion that the calculation of the State Board of Accounts relative to the collection of the ten percent (10%) tax is correct; that this tax should be calculated upon the total gross receipts, exclusive only "of any federal tax paid thereon."