

Acts of 1933, in any manner operated to repeal said section 40 of chapter 213, of the Acts of 1925, and that the same is now in full force and effect and an enforceable provision of the laws of Indiana relating to the operation and regulation of motor vehicles.

ATTORNEY GENERAL, ASSISTANT TO: Whether payment of one license fee by brokerage firm includes offices which it operates in different counties of state.

December 4, 1933.

Mr. Ralph N. Huffman,
Assistant to the Attorney General,
State of Indiana,
Indianapolis, Indiana.

Dear Sir:

I have before me your recent request that an official opinion issue in response to the inquiry:

“In view of sections 9727 and 9728 of Burns Annotated Indiana Statutes, 1926 Revision, I will be obliged if you will advise me if the payment of one license fee by a brokerage firm operating in several counties in the State of Indiana is sufficient license for all of their offices, or if the license fee should be paid in each county?”

The pertinent provisions of section 9727, *supra* (which is chapter 50, Acts of 1917, page 134, in force May 31, 1917), are contained in the final paragraph of the section which reads as follows:

“To carry on the business of a stock and exchange broker, in buying or selling stock, bank notes, gold, silver, promissory notes and bills of exchange, whether by individuals or corporations, one hundred dollars for one year: Provided, All actions and right of actions now pending under the provisions of the law in force at the time this act took effect.”

3 Burns Annotated Indiana Statutes (1926), section 9727.

Section 9728, referred to in the inquiry reads as follows:

“The money arising from the exhibitions mentioned in the foregoing section shall be paid over, by the county treasurers of their respective counties, to the treasurer of state on the first day of each calendar month and shall be added to the school fund and distributed as other money in the school fund is distributed.”

3 Burns Annotated Indiana Statutes (1926), section 9728.

It will be well to note that the paragraphs immediately preceding the portion of section 9727, quoted above, deal with licenses for ferries, shows, carnivals, circuses, wagon shows, concerts, moving picture shows, and so forth. In view of this fact, it seems evident that section 9728, *supra*, applies only to the license fees accruing as the result of such exhibitions and that the section has no application to the determination of this question which relates solely to the fee to be paid by brokers.

Consequently, there is no specific command to be found in the language of the act which indicates that the fee is to be collected on the basis of one license for each county in which the broker operates or on the basis of the payment of one fee for all operations within the state.

Because this is true, the well-recognized rule of statutory construction, that laws imposing a tax are to be strictly construed, and that all doubts be resolved against the state and in favor of the citizen in determining whether an article, thing or act is taxable is controlling.

State, ex rel., v. Continental Ins. Co., 67 Ind. 536, 556;

Chicago, etc., R. Co. v. Glover, 159 Ind. 166, 168; Schilling v. State, 116 Ind. 200;

Western Union Tel. Co. v. Axtell, 69 Ind. 199, 202;

Van Arsdall v. Indiana Bell Tel. Co., 84 Ind. App. 257, 259;

Spreckels Sugar Co. v. McClain, 192 U. S. 397;

U. S. v. Wigglesworth, 2 Story 369;

U. S. v. Merriam, 263 U. S. 179, 187-88;

Wadham Oil Co. v. Wisconsin, 246 N. W. 687-88;

25 R. C. L., Sec. 307, p. 1092;

59 C. J. 1131.

Applying the rule of interpretation stated above, I am of the opinion that the payment of one license fee under section 9727, *supra*, by a brokerage firm operating in several counties in the state will suffice to cover all of the brokerage activities of such company, and that it will not be necessary for such firm to procure a separate license and pay the stated fee in each county in which it operates.

**MEDICAL REGISTRATION AND EXAMINATION, BOARD
OF: Whether letters advertising "beauty baths for
women" constitutes practice of medicine.**

December 5, 1933.

Indiana State Board of Medical
Registration and Examination,
Room 5, State House Annex,
Indianapolis, Indiana.

Dear Sirs:

I have before me your letter concerning certain circular form letters advertising the administration of so-called "Beauty Baths for Women." You inquire whether the use of these letters for advertising purposes and/or the administering of said baths, as set out therein, constitute the practice of medicine within the meaning of section 12243 of Burns 1929 Supplement to Burns Annotated Indiana Statutes of 1926.

The above section, insofar as necessary for the consideration of your questions, provides as follows:

"To open an office for such purpose, or to announce to the public in any way a readiness to practice medicine in any county of the state, or to prescribe for, or to give surgical assistance to, or to heal, cure or relieve, or to attempt to heal, cure or relieve those suffering from injury or deformity, or disease of mind or body, or to advertise, or to announce to the public in any manner a readiness or ability to heal, cure or relieve those who may be suffering from injury or deformity, or disease of mind or body, shall be to engage in the practice of medicine within the meaning of this act: *Provided, That nothing in this act shall be construed to apply to or limit in any manner the manufacture, advertisement or sale of proprietary medicines.* * * *