

subject to your regulation in compliance with other provisions of the Act.

The answer to your first question in the affirmative will necessitate a decision of whether such shows can be considered as Class A, B or C. Since the language of the Act which determines Classes A and B is specifically restricted to entertainments operated in buildings and having a certain minimum square foot floor area, such shows must be included in the remaining Class C. Though no specific mention is made of this type of entertainment in Class C, the entertainments enumerated therein more nearly approximate such shows. It having been determined above that it was the legislative intent to include such outdoor shows within the purview of the Act, the application of words used in the latter classification may be enlarged to bring the operation of the law within the intention of the legislature. It therefore follows that such shows are subject to the discretionary regulation of Class C amusements as provided in the Act.

The answer to your last question is, of course, apparent in view of the foregoing. In my opinion such shows are subject to regulation as Class C amusements and it follows that they are subject to the penalties applicable to that class of entertainment for failure to comply with the provisions of the Act.

TAX COMMISSIONERS, STATE BOARD OF: Bridge bonds, whether surplus gasoline tax funds may be used to pay same.

August 21, 1937.

Hon. C. R. Benjamin,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of August 18, 1937, reading in part as follows:

“This board is affirming an appropriation of \$88,000.00 made by the Carroll County Council. Bonds are to be sold to raise the money. The money is to be used to build a bridge across the Wabash river.”

You submit the following question:

“May the Council of Carroll County provide for the payment of bridge bonds from gasoline tax receipts?”

You further state that: “The question is intended to ask whether the statutes will permit the payment of bridge bonds from gas taxes.”

The 1937 General Assembly enacted a new law governing the distribution of gasoline tax receipts.

Acts of 1937, page 776.

Under that Act it is provided as follows with respect to the funds allocated to the respective counties in the state:

“(a) The funds allocated to the respective counties of the state from the motor vehicle highway account shall be annually budgeted as provided by law, and, when distributed, shall be used for construction, reconstruction and maintenance of the highways of the respective counties, including highways which traverse the streets of incorporated towns, the cost of the repair and maintenance of which, prior to the tenth day of September, 1932, was paid from the county gravel road repair fund excepting where the commission is charged by law with the maintenance or construction of any such highway so traversing such street.

“(b) All funds allocated or distributed to the respective counties which are not used for maintenance shall be used for construction and reconstruction of the highways of the respective counties. Any surplus existing in the maintenance fund at the end of any year shall thereafter be used for construction and reconstruction of such highways by the respective counties.

“(c) The term ‘maintenance,’ when used with respect to cities, towns and counties in addition to the meaning heretofore assigned thereto, shall mean and include the purchase, rental, and repair of street and highway equipment, painting of bridges, the acquisition of grounds for and the erection and construction of storage and street and highway utility buildings, purchase of fuel and oil and supplies, and all other things necessary to the performance of the duties incidental to maintenance.”

Acts of 1937, page 781.

Construing similar language in the Act of the Special Session of 1932 (Acts of 1932, page 22), the Supreme Court of the State held that surplus gasoline tax money distributed under that Act could be used to pay existing county highway bonds.

Bridges v. State, ex rel., Vaughn, 208 Ind. 684.

By analogy, I think the same ruling would necessarily be made with respect to such funds distributed under the 1937 Act, above referred to.

Limited as in the above case to surplus funds, which are not necessary for the construction and maintenance of the highways of the county, your question is answered in the affirmative.

In order to avoid any misunderstanding, I think I should say that in my opinion such bonds, when issued, as they must be under chapter 119 of the Acts of 1937, would be general county obligations and would be payable out of general taxation, but in order to reduce taxation surplus gasoline tax money could be used as a supplementary source of revenue.

TAX COMMISSIONERS, STATE BOARD OF: Executory contracts, method of taxation of same.

August 25, 1937.

Hon. Philip Zoercher,
Chairman, State Board of Tax Commissioners,
231 State House,
Indianapolis, Indiana.

Dear Mr. Zoercher:

I have before me your letter concerning chapter 51 of the Acts of 1937 (Acts of 1937, p. 289) and requesting an official opinion in answer to the following question:

“If this statute is constitutional, will the purchasers of real estate on contract from other organizations be entitled to the same deduction?”

Section 1 of the above Act is as follows:

“Be it enacted by the General Assembly of the State of Indiana, That real property liable for taxation