

**Opinion No. 54-5892**

January 21, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Ray Lewis Secretary State Racing Commission P. O. Box 1693 Albuquerque, New Mexico

{\*329} This will acknowledge receipt of your letter of January 18, 1954, in which you inquire as to whether a licensee under Chapter 62, Article 6 of the 1941 Compilation, may deduct ten percent from the admission price in computing the amount of admission tax due under Section 62-609 (a), 1941 Compilation.

The aforementioned section, in so far as is material, imposes:

"A tax equal to ten (10) per cent of the amount received by any licensee on sold tickets for admission to the grounds where such horse races or meetings are held or conducted . . ."

The tax so levied is not a tax on the sale of the tickets, but is an occupation tax, the amount of which is measured by the receipts from admissions to the track. The proposal of the licensee whereby he proposes to deduct the amount of the tax from the price of the ticket before figuring the tax on the ticket is obviously incorrect. The licensee receives the full price of the ticket, and must pay a tax of ten percent of that amount.

By: Walter R. Kegel

Assist. Attorney General