

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-93 (1)M
Boxing & Wrestling
April 7, 1993

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. M921230B

On December 30, 1992, a Petition for Advisory Opinion was received from Titan Sports, Inc., Titan Tower, 1241 East Main Street, P.O. Box 3857, Stamford, CT 06902.

The issue raised by Petitioner, Titan Sports, Inc., is whether revenue from sources other than admission charges and charges for the sale of the right to broadcast or televise boxing or wrestling matches is includable in the term "gross receipts" for purposes of Section 452 of the Tax Law, the Boxing and Wrestling Exhibitions Tax (hereinafter the "Exhibition Tax").

Petitioner holds entertainment events in the State of New York. In some instances, it broadcasts such events through closed-circuit and pay-per-view television. The events purport to be professional wrestling matches under the authority of the "World Wrestling Federation" Petitioner derives revenue from many sources in addition to admission charges from live events and fees paid for closed-circuit and pay-per-view television, e.g., revenue derived from advertising, concessions, royalties, etc.

In order to promote its events, Petitioner purchases time from television stations and broadcasts video taped wrestling matches (some which were originally held in New York State). During such broadcasts, Petitioner advertises its own events and also allows unrelated parties, for a fee, to advertise their products. The purchaser of such commercial time is not purchasing the right to broadcast a boxing or wrestling exhibition, but rather is purchasing the right to advertise its products on television.

Petitioner typically derives revenue from the sale of merchandise at its live events. This includes revenue from the sale of T-shirts, event programs, magazines and other novelty items. Historically, each venue requires that anybody holding an event, including Petitioner, sell concessions through the arena's contracted vendors. The arena's vendors will sell whatever products Petitioner brings to the arena to be sold. At the end of the event, Petitioner takes whatever items have not been sold and allows the vendor to retain a portion of the sales proceeds as its fee. Sales tax is collected by the vendor upon the sale of the item to the public and is remitted to the applicable jurisdiction. The vendor acts as the agent of Petitioner in selling its goods.

Petitioner derives revenue from royalties in various ways, e.g., its "WWF" logo is a valuable commodity and Petitioner will receive royalties from others allowing them to use its logo on their products. Similarly, Petitioner will receive a royalty from the sale of video cassettes containing its wrestling exhibitions.

Section 452 of the Tax Law imposes an exhibition tax on the gross receipts of every person holding any professional or amateur boxing, sparring or wrestling match or exhibition in New York State. Such tax is imposed at a rate of five and one-half per centum of the gross receipts, exclusive of any federal taxes.

Section 451 of the Tax Law provides as follows:

For purposes of this article, the term:

1. "Gross receipts" shall mean the total gross receipts of every person from any professional or amateur boxing, sparring or wrestling match or exhibition held in this state, and upon which the said tax imposed by section four hundred fifty-two of this article is to be computed and shall include the price chargeable for the sale, lease or other exploitation of broadcasting, television and motion picture rights of such match or exhibition, to the extent only, however, that such price shall be attributable to transmissions and presentations received or exhibited in this state, and without any deduction whatsoever for commissions, brokerage, distribution fees, advertising or any other expenses, charges and recoupments in respect thereto.

2. "Gross receipts from broadcasting rights" shall mean the total gross receipts of every person from the sale, lease or other exploitation of broadcasting, television and motion picture rights of such match or exhibition held in this state, to the extent only, however, that such price shall be attributable to transmissions and presentations received or exhibited in this state, and without any deductions whatsoever for commissions, brokerage, distribution fees, advertising or any other expenses, charges and recoupments in respect thereto.

3. "Person" includes a corporation, association, club, company, partnership, estate, trust, liquidator, fiduciary or other entity or individual liable for the tax imposed by this article or under a duty to perform an act under this article.

Gross receipts are the whole, entire, or total receipts, as opposed to net receipts. It applies to every nickel a person, firm or corporation takes in regardless of the source from which it comes. It's the total amount of money or the value of other consideration received from performing services. Black's Law Dictionary 633 (Sth Ed.); Zollie C. Steakley, et al. v. West Texas Gulf Pipe Line Company, 336 S.W. 2d 925. Thus in the instant case "total gross receipts" includes all receipts derived from, but not limited to, admissions, broadcast and movie rights, advertising, food concessions, souvenir and T-shirt sales and closed-circuit and rebroadcast rights.

Therefore, in accordance with Section 452 of the Tax Law, Petitioner's gross receipts received from, but not limited to, admissions, broadcast and movie rights, advertising, food concessions, souvenir and T-shirt sales, royalties, and closed-circuit and rebroadcast rights for any

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professional or amateur boxing, sparring or wrestling match or exhibition held in New York State are subject to the exhibition tax subject to the exclusion contained in Section 451.2 of the Tax Law.

DATED: April 7, 1993

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.