

Opinion No. 22-3281

February 17, 1922

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. Herman G. Baca, Department Adjutant, American Legion, Santa Fe, New Mexico.

Payment License Tax by American Legion for Holding of Dances.

OPINION

{*123} In reply to your letter of the 15th instant, requesting an opinion regarding the liability of the American Legion to pay a license tax for the holding of Legion dances, I wish to advise you as follows:

Section 3313, Code 1915, provides that:

"All persons who allow in their houses or upon premises under their control, any dance or fandango, kept or held for profit, or where in connection with which liquors of any kind are sold, shall pay ten dollars for each day or night on which such dance or fandango is kept or held."

You will note that the section quoted does not require the persons who are giving the dance to pay the tax, but does require that the ten dollars license shall be paid by the persons who allow the homes or premises under their control to be used for a dance which is given for profit.

Your letter states that the Legion Posts give these dances and that no one profits by reason thereof. This being the case, in my opinion, no license tax should be collected from dances given by the Legion under the circumstances mentioned.