

**Opinion No. 35-877**

January 29, 1935

**BY:** FRANK H. PATTON, Attorney General

**TO:** State Tax Commission, Emergency School Tax Division, Santa Fe, New Mexico.  
Attention: J. E. Waterman.

Re: 1-7713-1

**OPINION**

{\*38} In answer to your inquiry of January 22nd as to whether or not Wilbur Cushman Agency of Albuquerque, engaged in the business of booking shows outside of the State of New Mexico, is subject to the Emergency School Tax.

Section 202 of the Emergency School Tax Act provides:

"None of the taxes levied by this Act shall be construed to apply to transactions in interstate or foreign commerce."

We are doubtful as to whether or {\*39} not the business conducted by the company in question constitutes commerce. If it does not, then the operations of the company are subject to the so-called sales tax whether the transactions are interstate or not.

Since we are not entirely familiar with the actual business done by this company we would suggest that you ask them for a detailed statement of the manner in which their business is done, with whom their contracts are made, the method of receiving payments, etc., and submit such statement of detailed facts to us and we will be in a position to give you a more comprehensive opinion as to the applicability of the tax.

By: J. R. MODRALL,

Asst. Attorney General