

UNIVERSITIES AND COLLEGES:
SCHOOLS:
SALES TAXATION:
TAXATION:
EXEMPTION FROM TAXATION:

The University of Missouri Press which publishes worthy special interest works not of sufficient interest to make their commercial publishing worthwhile is engaging in an educational function or activity and, therefore, sales at retail by the University of Missouri Press to private individuals are exempt from sales tax.

April 21, 1959



Honorable Paul M. Peterson
General Counsel
University of Missouri
1 Tate Hall
Columbia, Missouri

Dear Mr. Peterson:

You recently asked our office for an opinion as follows:

"Request is hereby made by the Board of Curators of the University of Missouri for an opinion of your office as to whether the sale of books by The Curators of the University of Missouri as hereinafter detailed falls within the exemptions provided in Section 144.040 RSMo 1949.

"The Curators of the University of Missouri has created the University of Missouri Press as a department of the University for the purpose of the publication and distribution of educational books.

"The purpose of the University of Missouri Press, as of all other university presses, is to publish worthy educational books. In announcing the establishment of the Press, Dr. Ellis, President of the University, stated that its purpose was to provide for the publication of worthy books that are of special interest to the State of Missouri or to the University. He further stated: 'Our purpose is not to compete with commercial publications, but to provide a means of publishing books that are

Honorable Paul M. Peterson

useful to the State and to publish valuable materials that grow naturally out of the University's program of research and teaching, and materials from other colleges and universities and research agencies.'

"While the books published by the University of Missouri Press will for the most part be sold wholesale to distributors, the Press will, however, supply books to individuals at retail. It is with these retail books, of course, that we are concerned.

"It is my opinion that these sales are incidental to and made in the course of the University carrying out its educational functions and activities, and therefore fall within the exemptions provided in Section 144.040 RSMo 1949, but the Curators would like your official opinion thereon."

Section 144.040 of the Revised Statutes of Missouri, 1949, reads as follows:

"In addition to the exemptions under section 144.030 there shall also be exempted from the provisions of this chapter all sales made by or to religious, charitable, eleemosynary institutions, penal institutions and industries operated by the department of penal institutions or educational institutions supported by public funds or by religious organizations, in the conduct of the regular religious, charitable, eleemosynary, penal or educational functions and activities, and all sales made by or to a state relief agency in the exercise of relief functions and activities."

According to your original request and the supplemental information provided by you, the facts are that the University of Missouri has established a University of Missouri Press service to meet a need not being met by established commercial publishing houses. It is the intention of the University publishing service to publish "special interest" books and research projects that are not of general interest and could not

Honorable Paul M. Peterson

for that reason be published for a profit by the established commercial publishing houses. The University of Missouri Press intends to publish these research papers and the like for the purpose of disseminating education and not for the purpose of profit.

We find no authority in Missouri directly in point on this question. From a reading of the exemption statute, it becomes apparent that if these works are published as an educational function or activity of the University, they are exempt from sales tax when they are sold by the University at retail to private individuals. If this is not an educational function or activity, then sales tax would, of course, be due and owing. We must then determine whether or not this is an educational function or activity.

In *Squire v. Students' Book Corporation*, 191 F. 2d 1018, the United States Court of Appeals held that a corporation wholly owned by an educational institution that sold books and supplies to students and faculty members and returned any and all profits to the educational institution was exempt from Federal income taxation as being operated exclusively for an educational purpose. The court noted also in that case that the business enterprise in which the taxpayer was engaged bore a close and intimate relationship to the functioning of the college.

It was held in *State of Tennessee v. Southern Publishing Association*, 169 Tenn. 257, 84 S.W. 2d 580, that a not for profit corporation could not properly run a commercial printing and publishing business. See also 100 A.L.R. 576.

Corpus Juris Secundum defines educational purposes at 28 C.J.S., pages 834 and 835, as follows:

"A broad phrase, including all those uses which reasonably serve the purposes of education as it is commonly understood. As applied to a school, the term is not limited to purposes of class-room work solely, but includes any activity necessary to the proper maintenance and operation of a school."

We feel that educational purposes and educational functions and activities are synonymous terms.

Certainly the founding of a press to publish works of

Honorable Paul M. Peterson

special interest to the educational world which in most instances would not be of sufficient general interest to allow their publication by a commercial publisher is a function that is necessary to the proper furthering of research activity and education. This is not a commercial enterprise aimed at profit making but rather an enterprise aimed at the proper dissemination of research and educational studies.

CONCLUSION

On the basis of the above facts and in view of the above-cited authority, it is our opinion that the University of Missouri Press is operated in furtherance of an educational function or activity of the University of Missouri and is thereby exempt from sales tax on retail sales made to private individuals.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, James E. Conway.

Yours very truly,

JOHN M. DALTON
Attorney General

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