

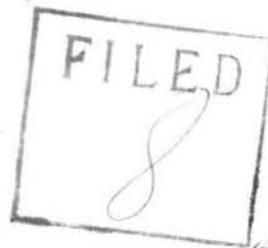
AGRICULTURAL ADJUSTMENT ACT:

Processing tax on cotton goods
used by Mo. Commission for the Blind.

Sec 9 15 Agricultural Adjustment Act

1-12

September 12, 1933



Missouri Commission for the Blind,
2832-34 Washington Avenue,
St. Louis, Missouri.

Attention: Mr. Lawrence J. Murphy, Jr.
Accountant.

Gentlemen:

This Department acknowledges receipt of your letter of August 24, 1933 relating to the processing tax on cotton goods. We herewith quote your letter:

"We are in receipt of a form from the Collector of Internal Revenue for reporting our inventory of cotton goods as of August first for the purpose of assessing us with the processing tax on cotton goods of .044184 per pound. Our Home Work Department make such items as aprons, towels, rugs, bath mats, etc. from cotton goods and it is for this reason that this form was sent to us, but we were of the opinion that being a State organization we are exempt from all Federal tax."

Section 9 (a) of the Agricultural Adjustment Act is as follows:

"To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity

whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: Provided, that upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid."

In paragraph (2) of subsection (d), the following definition of "processing" is given:

"In case of cotton, the term 'processing' means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term 'cotton' shall not include cotton linters."

You state in your letter "our Home work Department makes such items as aprons, towels, rugs, bath mats, etc. from cotton goods and it is for this reason that this form was sent to us, but we were of the opinion that being a State organization we are exempt from all Federal tax". From our interpretation of the first section, and from the definition of the term "processing" as quoted above, we are of the opinion that the Commission for the Blind should not be subject to the tax, as you are not engaged in the spinning and manufacturing of cotton.

We do not know the ruling of the Secretary of Agriculture in instances such as you present, but suggest to you that in the event

it becomes necessary for you to pay the processing tax an exemption might be had under Sec. 15 (a), which is as follows:

"If the Secretary of Agriculture finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value compared with the quantity of the commodity used for their manufacture that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, and the Secretary of the Treasury shall abate or refund any processing tax assessed or paid after the date of such certification with respect to such amount of the commodity as is used in the manufacture of such products."

A hearing might be had under Section (d), which is as follows:

"The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in the competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered

or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity."

A careful examination under the exemption clauses fails to reveal that State organizations are exempt from the tax.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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