

MISSOURI RELIEF AND RECON-
STRUCTION COMMISSION:

Exempt from payment of tonnage
inspection fee for drought feeds.

7-29

July 26, 1935.



Mr. J. C. Breshears,
Commissioner,
Department of Agriculture,
Jefferson City, Missouri.

Dear Sir:

We wish to acknowledge your request for an opinion
dated July 25, 1935, wherein you state as follows:

"We have a controversy with the
Missouri Relief and Reconstruction
Commission or Missouri Rural Rehabili-
tation Corporation regarding two
commercial feeds, to-wit:

"Drough Relief Horse and Mule Feed,
and Fodder Molasses Mixed Feed,
registered under the provisions of
the Missouri Feed Law, Section 12668,
Article 23, Revised Statutes of
Missouri, 1929, a copy of each regis-
tration is herewith attached.

"The point at issue is whether the
Missouri Relief and Reconstruction
Commission or the Missouri Rural
Rehabilitation Corporation should,
under Section 12668 Revised Statutes
Missouri, 1929, pay to the State of
Missouri the tonnage inspection fee
of eight cents per ton on the feeds
shown in statement of Wallace Crossley,
Administrator Missouri Relief and Re-
construction Commission, copy of which
is attached hereto.

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"Will you kindly furnish us with an immediate opinion as to whether this tax should be paid to the State of Missouri, and, if so, on what part of the feed shown in the statement attached hereto."

Your enclosure from Hon. Wallace Crossley, Missouri Relief Administrator, states in part as follows:

"Recently Mr. Mayes and Mr. Reed talked to Mr. Kleinschmidt regarding the payment of feed inspection tonnage fee on livestock feed sold through the Commission.

"Our accounting department has furnished me with the following figures on mixed feed sold through the Commission's Livestock, Feed and Seed Program.

1. Tons of feed sold for cash ...	17,602
2. Tons of feed sold on relief orders	15,344
Total	32,946

"Missouri produced in 1934, approximately 10 million bushels of corn. Normally this state produces an average of 150 million bushels and feeds 180 million bushels of corn. Last year production of hays, pasturage, and roughages was less than one half the normal. It was this situation that caused the Missouri Relief and Reconstruction Commission to come to the aid of Missouri livestock men.

"The program of the Missouri Relief and Reconstruction Commission insofar as the Missouri farmer was concerned, was planned to minimize the effect of the 1934 drought as far as possible through making

available rye, wheat, and barley, for seeding during the late summer and early fall months of 1934; conserve fodder which would otherwise not have been conserved and distributed to the livestock industry in the state; the conservation and distribution of seed corn; the distribution of blackstrap molasses, in order that Missouri might make the most speedy recover possible, once more favorable conditions have come to the aid of the Missouri's livestock and grain growing business.

"We realize the prime importance of giving assistance to livestock and poultry owners in the state who were unable to provide feed by any other means, as their livestock and poultry represented to them the basis of family needs, or actual subsistence.

* * * * *

"Through instructions from the Federal Emergency Relief Administration, Washington, D. C., we were instructed to turn over all proceeds realized through the sale of drouth relief feed to the Missouri Rural Rehabilitation Corporation. This procedure was necessary due to the fact that the Commission did not have any corporate identity, therefore, could not contract with dealers or handle notes accepted on feed sales.

"The above facts have been outlined briefly in order that you would be advised of our efforts to aid the Missouri Farmers.

"Due to the fact that we are a State Commission dispensing Federal and State Funds on a charitable basis, we do not

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feel that we come under the statutory provisions for the payment of a feed tax or inspection fee. We are filing with you our sales figures as above listed, but request that an inspection fee or feed tax be waived by your department."

From our understanding of the enclosure, the Federal Emergency Relief Administration purchases out of the funds granted for relief within the State certain drought feeds to be sold to farmers on relief rolls and who are unable to provide same. Funds used in the purchase and distribution of such feeds are furnished by the United States Government, granted for relief in the state, and are not treated as funds which may be considered to be "state funds" which are deposited in the State Treasury, nor are they disbursed by reason of any legislative appropriation or paid by warrants drawn by the designated state officials.

This department passed upon a similar question in an opinion addressed to Mr. H. H. Talbot of the Missouri Relief & Reconstruction Commission, under date of December 20, 1934, a copy of which we are enclosing, wherein it was held that the Relief Commodities Division of the Emergency Relief Administration was entitled to the same privileges and immunities respecting the Missouri Motor Vehicle Fuel tax as is accorded to any other agency or instrumentality of the United States Government.

The enclosure states that the Federal Emergency Relief Administration, Washington, D. C., has instructed the Missouri Relief & Reconstruction Commission to turn over all proceeds realized through the sale of drought relief feeds to the Missouri Rural Rehabilitation Corporation, a division of the Missouri Relief & Reconstruction Commission, thus making it clearly evident that the Federal Government at all times retains title and control of the funds and power and authority to supervise, direct and disburse.

As was stated in the enclosed opinion, "It is peculiarly inappropriate that the State of Missouri should require and demand any exaction whatsoever upon the privilege of disbursing relief commodities in this State."

Mr. J. C. Breshears

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From the foregoing we are of the opinion that the Missouri Rural Rehabilitation Corporation, a division of the Missouri Relief & Reconstruction Commission, being an agency or instrumentality of the United States Government, is exempt from the payment of a tonnage inspection fee as provided by Section 12668, R. S. Mo. 1929.

Yours very truly,

WM. ORR SAWYERS,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

WOS:

MW:HR