

SALES TAX: Tangible personal property used in connection with dental work where labor is principal charge not subject to tax; dental supplies sold in original form, not for resale, are taxable.

8-27

August 27, 1935.



Mr. C.W. Digges, Secretary,
Missouri State Dental Association,
Exchange National Bank Building,
Columbia, Missouri.

Dear Sir:

This department is in receipt of your letter of August 23 wherein you request an opinion as to House Bill No. 198, same being an emergency measure placing a 1% tax on all sales of tangible personal property and services, as it affects the dental profession. Your letter is as follows:

"At the request of Dr. Virgil Loeb, the President of the Missouri State Dental Association, I am writing to ask you to give your opinion on the sales tax as it affects the dentist."

The Act undertakes to impose a tax equivalent to 1% of the purchase price on every sale at retail and places a tax equivalent to 1% on the receipts from certain services. The services on which the tax is imposed are enumerated in Sec. 2, Laws of Mo. 1935, p. 415, and in the services enumerated no profession is included. Therefore, if the Act affects the dental profession, said profession must come within the terms of the section referring to the sale of tangible personal property, i.e., Sec. 2, division (a), Laws of Mo. 1935, p. 415, which is as follows:

"Upon every retail sale in this state of tangible personal property a tax equivalent to one (1) per cent. of the purchase price paid or charged, or in case such sale involves the

exchange of property, a tax equivalent to one (1) per cent. of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange."

Sec. 1 of said Act, subdivision (e) defines "Sale at Retail" as follows:

"'Sale at retail' means any transfer made by any person engaged in business as defined herein of the ownership of, or title to, tangible personal property to the purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration."

Bearing in mind that dentists, as well as physicians and veterinarians, receive practically all their compensation from work which they are able to do because of their skill and learning, the tangible personal property used in connection therewith being negligible, we are of the opinion that when false plates, teeth, bridge work, etc. are sold wherein the principal charge is for the labor and skill, such sales are not taxable.

When dental supplies are sold, from a stock kept on hand, in the original form, the same would constitute a sale of tangible personal property and the gross receipts therefrom would be subject to the 1% tax, providing same are not sold for resale. Likewise, gold, silver, cement, etc. used for fillings and bridge work when sold in their original form, not for resale, would be subject to the tax. However, as stated above, when such articles are used in connection with the dental work wherein the principal charge is for the labor performed, they are not subject to the tax.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General