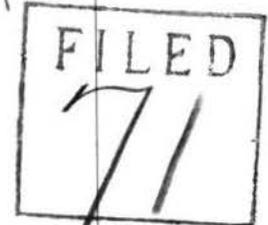


LIQUOR: In making the refunds authorized by Section 119 of House Bill No. 716, the Supervisor of Liquor Control must pay State Treasurer face amount of stamps out of the fund specifically appropriated for that purpose.

September 27, 1939

Hon. Walker Pierce, Supervisor
Department of Liquor Control
Jefferson City, Missouri



Dear Sir:

We have received your letter of September 19 which reads as follows:

"Some question has arisen with reference to the proper construction to be placed upon Section 119 of House Bill 716. It has been suggested that the legislature in enacting this provision intended one of two things:

"First, that the Supervisor of Liquor Control procure from the State Treasurer the stamps necessary to make the refunds set out in Section 119 and that he pay the State Treasurer out of the appropriation only the intrinsic value thereof.

"Second, that the Supervisor of Liquor Control shall procure from the State Treasurer the necessary stamps and that he pay the State Treasurer the actual face value of the stamps as is done in the ordinary course of business as now conducted between this Department and the State Treasurer.

"Will you please suggest the proper method of handling these funds."

Section 119 of House Bill No. 716, which you referred to in your letter and which is now contained in Laws of Missouri, 1939, page 167, reads in part as follows:

"Liquor and Beer Stamp Refunds.--There is hereby appropriated out of the State Treasury, chargeable to the General Revenue Fund, to the use of the Director of Liquor Control, the sum of \$47,972.37, or so much thereof as may be necessary for the purpose of purchasing liquor and beer stamps to be refunded to the following named companies or persons to replace stamps not used and cancelled upon the direction and under the supervision of the Director of Liquor Control."

The above quoted part of Section 119 is followed by a detailed list of sixty five companies entitled to refunds, together with the amounts due each company. By way of illustration, the first two names on this list, together with the amounts due, read as follows:

- "American Distilling Company, Pekin,
Illinois \$242.40
- Arrow Distilleries, Inc., Peoria,
Illinois 196.01."

The whole amounts due all of the companies in the list is then totaled at the end of said section, and this total is exactly \$47,972.37, the amount appropriated for such purposes. Therefore, it is apparent that the Legislature intended that the total amount of \$47,972.37 or "so much thereof as may be necessary" is to be used to "purchase liquor and beer stamps to be refunded to the following named companies or persons to replace stamps not used and cancelled" by the Supervisor of Liquor Control. This would indicate that the Legislature did not intend for the Supervisor to pay to the State Treasurer only the intrinsic value of the stamps, but rather that the Treasurer should be paid the face value thereof. If the intrinsic value only had been intended, the Legislature would only have appropriated perhaps \$50.00 to pay the printer. The actual cost of the stamps would not approach the value of \$47,972.37.

Furthermore, said Section 119 states that \$47,972.37 is appropriated to the use of the "Director of Liquor Control", chargeable to the General Revenue Fund for the purpose of purchasing the liquor and beer stamps to be refunded. Read in the light of existing statutes showing how and from whom the Supervisor shall obtain the stamps, it is further apparent that these particular stamps are to be purchased at their face value from the State Treasurer.

Section 35 of the Liquor Laws, Laws of Missouri, Extra Session 1933-34, page 90, provides as follows:

"It shall be the duty of the State Treasurer, upon the taking effect of this act, to provide suitable and inimitable state certificates and labels for this inspection, gauging and labeling, having on each proper places for countersigning by the State Treasurer and Supervisor of Liquor Control, and shall safely keep the same together with the plates used in making them, when not in actual use. The State Treasurer shall from time to time upon demand, deliver the aforesaid labels to the Supervisor of Liquor Control, taking therefor his receipt, and shall charge said Supervisor of Liquor Control with the same; and shall from time to time, as said Supervisor of Liquor Control makes returns of moneys collected in the course of his inspection, credit said Supervisor of Liquor Control's account with such sums, and shall keep a true and correct book account of his dealings with said Supervisor of Liquor Control."

It seems clear, therefore, that the Supervisor is charged the full face value for all stamps obtained from the State Treasurer, and as the stamps are sold, the money

so obtained is credited to the stamp account by the Treasurer. In other words, no provision is made anywhere to the effect that the Supervisor is to be charged only for the intrinsic value of any stamps which he obtains from the State Treasurer, and also, this has never been the practice. And, as we said above, there is no indication in said Section 119 that the general procedure as to obtaining the necessary stamps to accomplish these particular refunds is to be altered in any way from the usual procedure. In fact, Section 119, by its own wording, indicates otherwise.

CONCLUSION.

It is, therefore, our opinion that in order to accomplish the refunds authorized by Section 119 of House Bill No. 716, Laws of Missouri, 1939, page 167, that the Supervisor of Liquor Control must purchase the stamps from the State Treasurer at their face value, paying the State Treasurer for the same out of the appropriation authorized by the Legislature and given to the said Supervisor for that particular purpose.

Respectfully submitted,

J.F. ALLEBACH
Assistant Attorney General

APPROVED By:

W.J. BURKE
(Acting) Attorney General