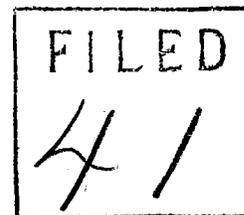


TAXATION AND REVENUE: Missouri sales tax properly deductible from bank tax computed under House Bill No. 888 of the 63rd General Assembly.



October 8, 1946

Mr. Haskell Holman  
Supervisor, Income Tax Unit  
Division of Collection  
Department of Revenue  
Jefferson City, Missouri

Dear Sir:

Reference is made to your letter of recent date, requesting an official opinion of this office, and reading as follows:

"It is requested that you furnish this department with a written opinion stating whether sales taxes would be a deductible item under Section 3, Sub Section E of House Bill #888 as passed by the present Missouri General Assembly."

House Bill No. 888 of the 63rd General Assembly, referred to in your letter, is one relating to the taxation of banks in Missouri. Paragraph E of Section 3 of the Act reads as follows:

"Each taxpayer shall be entitled to credits against the tax imposed by this Act for all taxes paid to the State of Missouri or any political subdivision thereof during the relevant income period, other than taxes on real estate, contributions paid pursuant to the Unemployment Compensation Tax Law of Missouri, and taxes imposed by this Act, except that no credit shall be allowed for any tax paid by any such taxpayer in the year 1945 for its share holders based upon the value of its shares." (Emphasis ours.)

The correct answer to your question, then, is to be determined by whether or not Missouri sales tax is a "tax paid to the State of Missouri."

House Bill No. 652 of the 63rd General Assembly is the "Sales Tax act." Examination of its provisions discloses that Section 11412 thereof reads as follows:

"It shall be the duty of every person making any purchase or receiving any service upon which a tax is imposed by this article to pay the amount of such tax to the person making such sale or rendering such service; any person who shall wilfully and intentionally refuse to pay such tax shall be guilty of a misdemeanor."

Also, Section 11411 reads, in part, as follows:

"Every person receiving any payment or consideration upon the sale of property or rendering of service subject to the tax imposed by the provisions of this article, or required to make collection of the tax imposed by the provisions of this article, shall be responsible not only for the collection of the amount of the tax imposed on such sale or service, but shall, on or before the 15th day of each month, make a return to the Director of Revenue of all taxes collected for the preceding month, or required to be collected for the preceding month, and shall remit the taxes so collected or required to be collected to the Director of Revenue. \* \* \* "

Further, Section 11414 of the same Act reads as follows:

"All revenue collected or received by the Director of Revenue from the taxes imposed by this article shall be deposited in the State Treasury weekly to the credit of the ordinary revenue fund."

From the foregoing, it is readily apparent that the Missouri sales tax is imposed upon the purchaser of tangible personal property and of certain services as enumerated in the Act, and that although the tax itself is in the first instance paid to the retailer of such tangible personal property or services, it is by such retailer transmitted to the Director of Revenue, where it becomes a part of the ordinary revenue fund of the state.

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CONCLUSION

In the premises, we are of the opinion that Missouri sales tax paid during the relevant income period is a proper item of deduction against the tax on banks computed under the provisions of House Bill No. 888 of the 63rd General Assembly.

Respectfully submitted,

WILL F. BERRY, Jr.  
Assistant Attorney General

APPROVED:

J. E. TAYLOR  
Attorney General

WFB:HR