

November 13, 1968



OPINION NO. 373

Answered by Letter - Brannock

Honorable J. H. Frappier  
24th District  
2335 Hummingbird Drive  
Florissant, Missouri 63031

Dear Mr. Frappier:

We have your letter of August 22, 1968, requesting an opinion of this office, which reads as follows:

"I have received numerous complaints regarding the tax exemption status of public and not for profit private schools with respect to the sales and use tax. Specifically, there seems to be a good deal of confusion relative to the payment of sales tax on the cost of printing of the school year books.

"Typically, the schools will sell the year books to students at a price substantially below the cost of printing. The difference between the sales price and printing cost is normally raised through the sale of advertising space. Of course, the preparation of the year book is a phase of the curriculum for the Journalism students.

"It is my understanding that some Missouri schools pay the sales tax but the vast majority do not. Would you please advise as to your opinion regarding the payment of sales tax on these printing costs. It is my understanding that someone has issued an opinion that all year books, regardless of the school's exemption status, are taxable because they are purchased for resale.

"Your clarification of this situation will

Honorable J. H. Frappier

be appreciated."

There are two types of schools within the State of Missouri, public and private. With regard to sales tax application mentioned in your letter, we enclose herewith copy of Attorney General Opinion No. 64, dated April 20, 1954, issued to Mr. M. E. Morris, which deals with a private school, Wentworth Military Academy, which is incorporated under a Pro Forma Decree.

The conclusion therein is that Wentworth Military Academy is not exempt from the Missouri sales tax upon purchases made to or sales made by such organization.

Rule No. 5 adopted by the Department of Revenue of the State of Missouri revised October 13, 1967, in its concluding paragraph on page 60 states:

"All purchases or sales made by or to private schools, such as military, trade or finishing schools and other such private institutions, are subject to tax."

With regard to public schools and their suppliers relative to sales and use tax, Rule No. 6, pages 60 and 61, Department of Revenue, Missouri Sales Tax Rules, states as follows:

"Sections 144.040 and 144.615(3) clearly exempts from tax purchases or sales made by schools supported by public funds or religious organizations, when said purchases are paid for by public funds, or funds belonging to said institutions and where such items purchased are used in the conduct of regular educational or religious functions and activities.

"When schools purchase equipment or supplies for use by individuals, that does not become the property of the school and when paid for from funds not belonging to the school or with funds collected from or to be collected from students, tax should be paid on such purchases. This includes athletic equipment, musical instruments and supplies, books and such other material, which becomes the property of the individual purchasing same.

"Therefore, when orders are placed for school equipment or supplies it should be clearly

Honorable J. H. Frappier

indicated in the purchase order whether or not the goods are to become the property of the school or an individual. Where practical, separate order blanks should be used so that the seller can recognize the taxable items purchased. Sales or purchases of property under an arrangement where an individual or a school takes orders from students and makes a combined or single purchase for the individual benefit and use of the students are not exempt and tax must be collected by the vendor or seller.

"Suppliers or retailers selling rings, pictures, sweaters, jackets, school annuals, musical instruments, shoes, and similar items or the rental of gowns, caps and other items, which are for the personal, individual benefit and use of a student should include and collect the sales or use tax on such sales or rentals. Purchase orders should designate if purchases are for school purposes and not for student's individual and personal benefit ownership, and if the purchases are for the school's purposes as part of their regular educational activities no tax should be collected by the sellers. (Examples of non taxable situations: When a school purchases books, desks, school supplies, and equipment, diplomas, medals, awards or cups, athletic, musical or other equipment and supplies purchased for the athletic and other departments, and for the general use by or benefit of all students entered or engaged in regularly sponsored school athletic or other educational programs, classes, events or activities.)

"Operators of vending machines or commissaries located in schools, but not operated by the schools or any school group, are required to report the tax on the gross receipts from these vending machines or commissaries operated by them. (See rule 67.)

"Tax need not be collected on admissions charged to school plays or entertainments sponsored as a part of the regular school program as such programs are considered normal school activities; on the other hand, when entertainments, programs,

Honorable J. H. Frappier

etc., are put on by individuals, entertainers or groups thereof, who make this a business and receive as compensation therefor a portion of the net receipts, then the Sales Tax must be collected on the admission charge even though sponsored by the school and the profits, if any, are used for school purposes."

The Department of Revenue under the above rule requires the school, when it receives the school annual or other personal property to be paid for by the student, to pay to the printer or supplier sales tax on the entire charge made by the printer or supplier.

Very truly yours,

NORMAN H. ANDERSON  
ATTORNEY GENERAL

Encl. - Op. No. 64-Morris