

March 23, 1970 OPINION LETTER NO. 39
(Answered by letter-
Nowotny)

George A. Ulett, M. D.
Director
Division of Mental Diseases
722 Jefferson Street
P. O. Box 687
Jefferson City, Missouri 65101



Dear Dr. Ulett:

This is in reply to your request for an opinion of this office as to whether the Canteen at the Farmington State Hospital is liable for state sales taxes, such Canteen being operated by the Farmington Assistance League. Your letter sets out the details of operation and being quite lengthy is attached hereto as a statement of the facts.

If the Canteen is exempt from the sales tax it would be so under Section 144.040, RSMo 1959, which reads as follows:

"In addition to the exemptions under section 144.030 there shall also be exempted from the provisions of sections 144.010 to 144.510 all sales made by or to religious, charitable, eleemosynary institutions, penal institutions and industries operated by the department of penal institutions or educational institutions supported by public funds or by religious organizations, in the conduct of the regular religious, charitable, eleemosynary, penal or educational functions and activities, and all sales made by or to a state relief agency in the exercise of relief functions and activities."

The organization in question is clearly not a penal institution or an educational institution supported by public funds. Therefore, to be exempt the organization must qualify as either a religious or charitable institution.

George A. Ulett, M. D.

Basically the purpose of the Canteen is to make available certain common necessary items for purchase by the patients or families visiting the patients. All of the proceeds are then used for recreational and rehabilitation purposes. Operation of the Canteen also serves as a rehabilitation function.

The reason for granting state tax exemptions for charitable organizations is in return for the performance of functions which benefit the public and the exemption in favor of charitable institutions is based upon the ground that a benefit is conferred upon the public by them with consequent relief, to some extent, of the burden imposed upon the state to care for and advance the interests of its citizens. *Bethesda General Hospital v. State Tax Commission, Mo.*, 396 S.W.2d 631 (1965); 84 C.J.S. Taxation, Section 281, p. 533; 51 Am.Jur.Taxation, Section 600, p.583; 34 A.L.R.635.

Therefore, it is our opinion that the Canteen at the Farmington State Hospital for Missouri is exempt from the sales tax law under Section 144.040, RSMo.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Encls:

Copy Letter
from George A. Ulett, M.D.
October 15, 1969.