

TAXATION (SALES AND USE):  
TAXATION (EXEMPTIONS):

The Missouri sales tax is not applicable to the sale of books by individuals made through the Raytown Area PTA Council sponsored Student Used Book Exchange.

August 13, 1970

OPINION NO. 369



Honorable Donald L. Manford  
Missouri Senate - Eighth District  
9409 Oakland  
Kansas City, Missouri 64138

Dear Senator Manford:

This is in response to your request for an opinion on the following question:

"During the third week of August 1970, the Raytown Area PTA Council will sponsor a non-profit Student Used Book Exchange. Our objective is to provide a central location and simple process for the families in our school district to easily sell and buy the used books if they so choose. The evaluating (sic) and pricing will be entirely on the individuals independent judgment. Since this is not an attempt to raise funds, but offered as a service, the only fee to be charged will be to cover actual expenses. The question has been raised as to whether state sales tax is applicable in this case. This the (sic) the question we would like to put before you."

Chapter 144 of the Revised Statutes of Missouri contains the sales and use tax law. The provisions of this law applicable to the question presented are as follows:

Section 144.010, RSMo 1969.

"1. The following words, terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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"(2) 'Business' includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and the classification of which business is of such character as to be subject to the terms of this chapter. The isolated or occasional sale of tangible personal property, service, substance, or thing, by a person not engaged in such business does not constitute engaging in business, within the meaning of this chapter. (Emphasis supplied).

\* \* \*

"(8) '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; provided, however, that for the purposes of this chapter and the tax imposed thereby, purchases of tangible personal property made by duly licensed physicians, dentists and veterinarians and used in the practice of their professions shall be deemed to be purchases for use or consumption and not for resale." (Emphasis supplied).

Section 144.020, RSMo 1969.

"1. A tax is hereby levied and imposed upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

"(1) Upon every retail sale in this state of tangible personal property a tax equivalent to three per cent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to three 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; except as otherwise provided in section 144.025;" (Emphasis supplied).

Based upon the particular facts presented in your letter, it is the view of this office that the sales made through the Raytown Area PTA Council sponsored Student Book Exchange would be isolated

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or occasional sales of tangible personal property by persons not engaged in such business within the meaning of Section 144.010(2), RSMo 1969. Accordingly, they do not constitute sales of tangible personal property at retail upon which a tax is imposed by Section 144.020, RSMo 1969.

CONCLUSION

It is, therefore, the opinion of this office that the Missouri sales tax is not applicable to the sale of books by individuals made through the Raytown Area PTA Council sponsored Student Used Book Exchange.

The foregoing opinion, which I hereby approve, was prepared by my assistant, John E. Park.

Very truly yours,



JOHN C. DANFORTH  
Attorney General