

DIRECTOR OF REVENUE: The Director of Revenue has authority under
PURCHASING AGENT: Section 32.050, RSMo 1969, to enter into a
 contract with a private corporation under
which contract employees of the corporation key punch data necessary
for income tax refunds. Any such contract must be awarded by the
State Purchasing Agent in accordance with Section 34.030, RSMo 1969.
The furnishing of information obtained from income tax returns to
such corporate employees would not violate the provisions of Section
143.270, RSMo 1969, which provides that the contents of state income
tax returns shall be confidential. The persons performing the key
punching services would be subject to the statutory prohibitions
against divulging information obtained by income tax returns.

December 1, 1970

OPINION NO. 450

Honorable James E. Schaffner
Director of Revenue
Department of Revenue
Jefferson Building
Jefferson City, Missouri 65101



Dear Mr. Schaffner:

This official opinion is rendered pursuant to the request contained in your letter concerning the entering into a contract with a corporation under which the corporation furnishes employees who key punch data necessary for income tax refunds.

More specifically the question is whether the Director has authority to contract with a corporation for key punching of information necessary to make income tax refunds under circumstances where the persons performing the services would be under an oath of secrecy and supervised by regular personnel of the Department.

It is our understanding that the only function to be performed by the employees of the private corporation would be the transferring of information from tax returns to machines so that the information can be utilized by a computer. Employees of the Department of Revenue would supervise and control this operation.

Authority to enter into such a contract is provided by Section 32.050(2), RSMo 1969, where it is stated as follows:

"Powers and duties of director.--1. The director of revenue shall:

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"(2) Procure, either through, the purchasing agent, or by other means authorized by law, supplies, material, equipment or contractual services for the department of revenue and for each division in the department;"

There are no statutory provisions for the Director of Revenue to procure contractual services except through the State Purchasing Agent. Section 34.010.1 and .4 provide as follows:

"1. 'Contractual services' shall include all telephone, telegraph, postal, electric light and power service, and water, towel and soap service.

* * *

"4. The term 'supplies' used in this chapter shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except as in this chapter otherwise provided."

Section 34.040 provides in part as follows:

"The purchasing agent shall purchase all supplies for all departments of the state, except as in this chapter otherwise provided. * * *"

Although the Director of Revenue through the State Purchasing Agent may have the power to enter into such a contract, those provisions of the Missouri Income Tax statute making it unlawful to divulge information relating to income tax returns filed under the law must be considered.

Section 143.270, RSMo 1969, states as follows:

"Officers not to divulge information--exceptions--penalty--1. It shall be unlawful for any person, persons or officers to divulge, give out or impart to any other person, or persons, any information relative to, or the contents of any income tax return filed under this chapter, or to permit any other person or persons not connected with his office to see, inspect or examine the same; but it shall be lawful for any person or officer to use any income tax return filed under this chapter for the purpose of assessing intangible personal property." (Emphasis supplied)

It is observed that regular personnel of the Department of Revenue will supervise and control the key punch operators with respect to the performance of their work. Under these circumstances it is our view that such operators would be persons connected with the

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office of Director of Revenue within the meaning of Section 143.270(1) while engaged in transferring income tax information from taxpayers' returns to key punch cards. Accordingly, the furnishing of income tax information by the Director to these operators would not be prohibited.

Section 143.270(1) states:

"It shall be unlawful for any person, * * *
to divulge, give out or impart to any other
person, or persons, any information relative
to, or the contents of any income tax return
* * * "

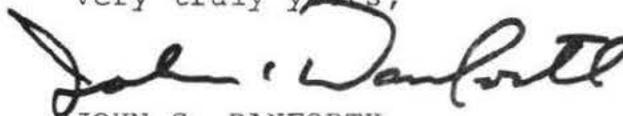
In view of this statutory language it is our further opinion that the persons performing the key punching services in question would be subject to the prohibition against divulging information gained from such income tax returns.

CONCLUSION

It is the opinion of this office that the Director of Revenue has authority under Section 32.050, RSMo 1969, to enter into a contract with a private corporation under which contract employees of the corporation key punch data necessary for income tax refunds. Any such contract must be awarded by the State Purchasing Agent in accordance with Section 34.030, RSMo 1969. The furnishing of information obtained from income tax returns to such corporate employees would not violate the provisions of Section 143.270, RSMo 1969, which provides that the contents of state income tax returns shall be confidential. The persons performing the key punching services would be subject to the statutory prohibitions against divulging information obtained by income tax returns.

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

Very truly yours,



JOHN C. DANFORTH
Attorney General