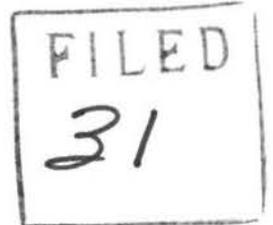


TAXATION (SALES AND USE): The sale by Old Warson Country Club of tickets for admission to the Ryder Cup Golf Tournament is an isolated or occasional sale not subject to Missouri Sales Tax because the tournament is the first ever held by the club to which admission is charged and no future tournaments of this kind are planned or expected to be held.

May 5, 1971

OPINION NO. 31

Honorable Stephen Burns
Representative, District 42
10702 Manchester
St. Louis, Missouri 63122



Dear Mr. Burns:

This official opinion is issued in response to your request for a ruling as to whether sale of tickets for admission to the Ryder Cup Golf Tournament to be held at Old Warson Country Club are subject to Missouri State Sales Tax.

The pertinent facts as presented in your letter with enclosures may be stated as follows:

The Old Warson Country Club is a not-for-profit social club which will be host to the Ryder Cup Golf Tournament in September, 1971. Tickets will be sold to finance the tournament. It is not possible to determine that all expenses can be met from the proceeds of sale of tickets but hopefully the proceeds will pay such expense with enough left over to offset damage and wear and tear to the golf course and clubhouse. Most of the arrangements and work will be done on a voluntary basis, without compensation, by club members in the St. Louis area. The club has never held a tournament of this character before and it is expected that no such tournament will be held again in the foreseeable future.

The question is whether or not a Missouri Sales Tax is imposed upon the sale of admission tickets to this tournament.

Section 144.020, RSMo 1969, imposes a tax on all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state.

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Section 144.010(8) defines "sale at retail" to mean any transfer made by any person engaged in business as defined therein, including "(a) Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events;".

It is clear that to be taxable the statute requires that a person (1) be engaged in business, and (2) make a sale at retail. The law defines "sale at retail" to include sales of admission tickets to athletic events. Accordingly, the sale of admission tickets under the circumstances outlined in your letter would be taxable if the seller is engaged in business as defined in Section 144.010(2), RSMo 1969. This section provides as follows:

"'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 sections 144.010 to 144.510. 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 sections 144.010 to 144.510." (Emphasis supplied)

The facts indicate that this is the first tournament of this character held by the country club and no future tournaments are planned or expected to be held. The Old Warson Country Club is neither organized nor operated for the purpose of holding golf tournaments, but rather for providing golf and other recreational facilities for its members as a private country club. The fact it holds a golf tournament of the Ryder Cup type is in itself something out of the ordinary and beyond the usual course of conduct of such a club. It is our view that the sale of tickets for admission to the golf tournament under the circumstances outlined in this letter is not subject to the Missouri Sales Tax for the reason that it is an isolated or occasional sale within the meaning of Section 144.010(2), RSMo 1969. The legislature had a purpose in inserting the language contained in this section of the statute and to say that a single transaction or sale by a person not engaged in the business of holding golf tournaments is not an isolated or occasional sale is to ignore the statutory language and render it meaningless.

In Glass-Tite Industries, Inc., v. State Board of Equalization, (App.) 72 Cal.Rptr.244,248, it was held that a single sale of a company's equipment was not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit, and accordingly it was an "occasional sale" within the meaning of the sales tax statute of California and not taxable.

In Commonwealth ex rel. Lockett v. Revday Indus., Inc., Ky., 432 S.W.2d 819,820, it was held that the sale of manufacturing equipment by a company engaged in manufacturing a product and selling it at retail

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was not a sale of property held or used in the course of its selling activity, and was exempt from state sales tax as an "occasional sale."

In Ersted v. Hobart Howry Co., 299 N.W.66, 68 S.D.111, it was held that where there is a single transaction involving the sale of securities, it constitutes an isolated sale and is exempt from the provisions of the Blue Sky Law of South Dakota. To the same effect see Tarsia v. Nick's Laundry & Linen Supply Co., 300 P.2d 28,30, 239 Ore. 562; Nelson v. State (Okla.Cr.) 355 P.2d 413.

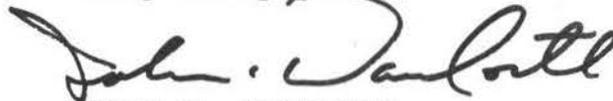
Rule No. 49 of the rules and regulations issued by the Department of Revenue, with respect to Missouri Sales Tax, does not and could not contain any provision which renders an isolated or occasional sale of this type taxable, in view of the statutory language to which reference is made above.

CONCLUSION

It is the opinion of this office that the sale by Old Warson Country Club of tickets for admission to the Ryder Cup Golf Tournament is an isolated or occasional sale not subject to Missouri Sales Tax because the tournament is the first ever held by the club to which admission is charged and no future tournaments of this kind are planned or expected to be held.

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

Very truly yours,



JOHN C. DANFORTH
Attorney General