

Answer by letter-Wieler

January 18, 1971

OPINION LETTER NO. 94

Mr. J. E. Riney, Chairman
State Tax Commission
Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Mr. Riney:

This is in response to your request for an opinion concerning the effect of Senate Bill No. 3, as passed by the Fourth Extra Session, 75th General Assembly, upon the annual corporation franchise tax for the year 1971.

Senate Bill No. 3, which becomes effective on March 31, 1971, provides as follows:

"Section 147.010, RSMo 1969 is repealed and one new section enacted in lieu thereof, to be known as section 147.010, to read as follows:

"1. For the taxable year of 1971 and thereafter every corporation of this state organized under or subject to chapter 351, RSMo, or under any other laws of this state shall, in addition to all other fees and taxes now required or paid, pay an annual franchise tax to the state of Missouri equal to one-twentieth of one percent of the par value of its outstanding shares and surplus, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purpose herein contained such shares shall be considered as having a value of five dollars per share unless the actual value of such shares should exceed five dollars per share, in which case the tax shall be levied and collected on the actual value

Mr. J. E. Riney

and the surplus. If such corporation employs a part of its outstanding shares in business in another state or country, then such corporation shall pay an annual franchise tax equal to one-twentieth of one percent of its outstanding shares and surplus employed in this state, and for the purposes of this chapter such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets in this state bears to all its property and assets wherever located.

"2. Every foreign corporation engaged in business in this state whether under a certificate of authority issued under chapter 351, RSMo, or not, shall pay an annual franchise tax to the state of Missouri equal to that levied in subsection 1 of this section on the par value of its outstanding shares and surplus employed in business in this state, or if the outstanding shares of such corporation or any part thereof consist of shares without par value, then, in that event, for the purposes herein contained, such shares shall be considered as having a value of five dollars per share, unless the actual value of such shares should exceed five dollars per share, in which case the tax shall be levied and collected on the actual value and the surplus, and for the purposes in this chapter such corporation shall be deemed to have employed in this state that proportion of its entire outstanding shares and surplus that its property and assets in this state bears to all its property and assets wherever located.

"3. This law shall not apply to corporations not organized for profit, nor to express companies, which now pay an annual tax on their gross receipts in this state, and insurance companies, which pay an annual tax on their premium receipts in this state; but bank deposits shall be considered as funds of the individual depositor left for safekeeping and shall not be considered in computing the amount of tax collectible under the provisions of this chapter.

Mr. J. E. Riney

"4. Every corporation filing a report under the provisions of this section shall pay either the tax due or the sum of twenty-five dollars, whichever is greater."

Section 147.020, RSMo 1969, provides that every corporation liable for this tax shall make a report in writing to the State Tax Commission annually on or before the 15th day of April setting forth certain enumerated information concerning the structure and financial condition of the corporation. This report is to be submitted to the State Tax Commission along with a payment for the annual franchise tax as calculated by using the formula contained in Section 147.010. See Section 147.030, sub. 2, RSMo 1969. Section 147.030, sub. 1, RSMo 1969, provides that the State Tax Commission shall, on or before the 15th day of May in each year, make a final determination as to the amount of tax due from each corporation for that year's franchise tax and report this amount to the Director of Revenue, who then makes out a tax bill against each corporation and notifies the proper officials of each corporation of the amount of tax determined by the Commission, the amount paid with the report, and the amount, if any, remaining unpaid. Section 147.030, sub. 2, RSMo 1969, provides that ". . . When the tax as determined by the commission is paid, the director of revenue shall deliver a receipt for taxes paid which shall recite that the corporation named therein has paid its annual franchise tax for the year ending the thirty-first day of December."

Senate Bill No. 3 changes Section 147.010 in two particulars. It provides for a minimum annual franchise tax of twenty-five dollars, and it provides that this new minimum fee shall be in effect for the taxable year of 1971 and thereafter.

Yours very truly,

JOHN C. DANFORTH
Attorney General