

FAIRS: The gross receipts of the State Fair,
STATE FAIR: derived from the sale of admission
COUNTY FAIRS: tickets, are subject to Missouri sales
TAXATION (EXEMPTION): tax. The gross receipts from the sale
TAXATION (SALES & USE): of admission tickets to county fairs
sponsored by fair associations, or by
4-H Extension Councils, are exempted from sales tax by Senate
Bill No. 607, 77th General Assembly (1974). Sales of tickets
to county fairs sponsored by other types of private organizations
are exempted from sales tax by Section 144.040.1, RSMo, as amended
by House Bill No. 1593, 77th General Assembly (1974), only if the
sponsoring organizations are charitable organizations.

OPINION NO. 163

June 13, 1974

Mr. James R. Spradling
Director of Revenue
Department of Revenue
Jefferson State Office Building
Jefferson City, Missouri 65101



Dear Mr. Spradling:

This official opinion is issued in response to your request for a ruling on whether the gross receipts of the Missouri State Fair and county fairs are subject to Missouri sales tax. You have stated the following facts with regard to the question:

"The Department of Revenue has never collected sales tax on the gross receipts of the Missouri State Fair. Whether this practice has resulted from a policy decision or an oversight is uncertain; whatever its origin, however, the Department is now of the opinion that this practice is erroneous and that sales tax should be collected on the gross receipts of the Fair.

"In the case of county fairs there is, no doubt, some confusion caused by the fact that while the receipts from sales to political subdivisions of the State of Missouri are exempt from sales tax, the receipts from sales made by these political subdivisions are not necessarily exempt from sales tax."

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We understand your question to refer to gross receipts from the sale of admission tickets to the fairs. Sales by individual concessionaires are an entirely separate matter. See our Opinion No. 544, Ryan, December 31, 1970, which held that both state and city sales tax must be collected on sales by individual concessionaires. A copy of Opinion No. 544 is attached hereto.

There appears to be some confusion about the significance of the "isolated or occasional sale" referred to in Section 144.010.1 (2), RSMo 1969, as not subject to the Missouri sales tax. Such sales are mentioned merely as statutory exceptions to the general definition of taxable "business," under which they might otherwise fall. But the State Fair and county fairs do not come within this exception for occasional activities. See Opinion No. 31, Burns, May 5, 1971, attached hereto.

1. The State Fair

Missouri's state sales tax is 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. . . ." Section 144.020, RSMo 1973 Supp. Both this section and Section 144.010.1(8), RSMo 1969, defining a "sale at retail," specifically apply to sales of admission tickets to places of amusement, entertainment, and recreation. Thus, the gross receipts of the State Fair would be subject to the sales tax, unless specifically exempted by some other statutory provision, because the fair--although established for the purpose of ". . . encouraging the development of agricultural, horticultural, mechanical, mineral, stock raising and all other industrial interests of the state of Missouri, . . ." (Section 262.220.1, RSMo 1969)--is in our opinion conducted in a manner which also renders it a place of amusement, entertainment, and recreation. It is as much a carnival as an agricultural exposition, encompassing rides, games, races, and vaudeville.

We note that Section 144.010.1(5) specifically includes the state and its political subdivisions within the definition of "persons" whose activities may be subject to the sales tax. We further note that no specific exemption from the sales tax law applies to sales of admission tickets to the State Fair. Therefore, we conclude that such sales are subject to the sales tax.

2. County Fairs

Senate Bill No. 607, 77th General Assembly (1974), was signed by the Governor on May 9, 1974, and became effective immediately by

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virtue of its emergency clause. It provides, in pertinent part, as follows:

"In addition to the exemptions provided by the provisions of sections 144.030 and 144.040, RSMo, there shall also be exempted from the provisions of chapter 144, RSMo, all ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, . . ."

County fairs in the various counties of Missouri are sponsored by different types of public and private organizations. Some of these organizations receive financial assistance from the state to conduct the fairs under Section 262.450, RSMo 1969, or from counties pursuant to Section 262.500, RSMo 1969. The majority of these organizations are associations organized for the specific purposes of conducting the fairs, or 4-H Extension Councils. However, a few of the fairs are conducted by nonprofit civic organizations such as the Junior Chamber of Commerce and the Lions Club.

It is clear that the fair associations and the 4-H Extension Councils which sponsor county fairs come within the above-quoted statutory language and are, therefore, entitled to sales tax exemptions for their sales of admission tickets to the fairs. They are benevolent, scientific, or educational in character and their purposes obviously are the ones specified by the statute. The other civic organizations which sponsor county fairs, however, may not have been ". . . formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, . . ." If these objectives are not among the stated purposes of the sponsoring organizations, the specific sales tax exemption of Senate Bill No. 607 would be inapplicable to ticket sales by such organizations.

However, the general charitable exemption of Section 144.040.1, as amended by House Bill No. 1593, 77th General Assembly (1974), signed by the Governor and made effective May 7, 1974, by virtue of its emergency clause, may still exempt such sales, if the sponsoring organizations are in fact charitable, because the county fairs are charitable or educational "functions or activities" within the meaning of that statutory provision:

"In addition to the exemptions under section 144.030, there shall also be exempted from the provisions of sections 144.010 to 144.510

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all sales made by or to religious and charitable organizations or institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities."

See Community Memorial Hospital v. City of Moberly, 422 S.W.2d 290, 295 (Mo. 1967).

". . . a gift for the advancement of . . . agricultural knowledge, . . . is a valid charitable gift. . . .

". . . Education comprehends in its broadest significance the acquisition of all knowledge tending to develop and train the individual and when used in this sense is not limited to the years of adolescence or to instruction in the schools. Gifts for the promotion of science, learning, and useful knowledge by other means than schools or colleges, . . . are equally public and charitable. . . ." 14 C.J.S. Charities §15, p. 446.

We conclude, therefore, that admission tickets to county fairs which are conducted by civic organizations other than fair associations, or 4-H Extension Councils, are also exempt from the Missouri sales tax if such organizations are themselves charitable.

CONCLUSION

Therefore, it is the opinion of this office that the gross receipts of the State Fair, derived from the sale of admission tickets, are subject to Missouri sales tax. The gross receipts from the sale of admission tickets to county fairs sponsored by fair associations, or by 4-H Extension Councils, are exempted from sales tax by Senate Bill No. 607, 77th General Assembly (1974). Sales of tickets to county fairs sponsored by other types of private organizations are exempted from sales tax by Section 144.040.1, RSMo, as amended by House Bill No. 1593, 77th General Assembly (1974), only if the sponsoring organizations are charitable organizations.

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The foregoing opinion, which I hereby approve, was prepared by my assistant, Mark D. Mittleman.

Yours very truly,

A handwritten signature in cursive script, reading "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 544
12-31-70, Ryan

Op. No. 31
5-5-71, Burns