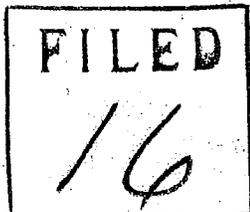


HOUSE BILL NO. 369:
TRAILER CAMPS:
SALES TAX:

House Bill No. 369 is not a part of the Missouri Sales Tax Law, and therefore exemptions to the application of the Missouri Sales Tax Law do not apply to House Bill No. 369. Further, that trailer space rented by educational institutions to its students or affiliated personnel, is not subject to the application of House Bill No. 369, since such space is not offered for rental to the public.



April 26, 1954

Honorable L. M. Chiswell
Supervisor
Department of Revenue
State of Missouri
Jefferson City, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"With relation to the provisions of House Bill 369 commonly referred to as the Trailer Camp Tax Act enacted by the 67th General Assembly, approved by the Governor and effective August 29, 1953, the question has arisen as to whether under the provisions of this act trailer camps operated by those institutions provided with statutory exemption with relation to the Missouri 2% Sales Tax under Section 144.040 Revised Statutes of Missouri 1949 are exempt from being required to collect and remit the 3% trailer camp tax imposed by the act even though such trailer camp may be operated solely for the use of student bodies or personnel affiliated with such institutions exempt from sales tax.

"It is respectfully requested that this department be provided with an official opinion whether the statutory exemption from sales tax granted under the law relating to sales tax applies also to those referred to as operating a taxable privilege as defined in the Trailer Camp Tax Act."

The first question which we have to answer is whether House Bill No. 369, referred to by you, was enacted as a part of the Sales Tax Law. If it was, then any exemption to the Sales Tax

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Law would apply to House Bill No. 369; if it was not, then obviously such Sales Tax Law exemption would not apply to House Bill No. 369.

It is our opinion that House Bill No. 369 does not impose a sales tax and is not a supplement to the Missouri Sales Tax Law.

We note that in V.A.M.S., 1953 Supplement, House Bill No. 369 has been placed in Chapter 144, RSMo 1949, which is the Sales Tax Chapter. This, however, is not conclusive, and does not prove that House Bill No. 369 is a sales tax.

It seems clear to us from the language of House Bill No. 369 that it is not, and was not intended to be, part of the Sales Tax Law. We feel that this is evidenced by the underlined (by us) portion of Section 144.560, V.A.M.S., 1953 Supplement, which reads:

"1. It is hereby declared to be the legislative intent that every person is exercising a taxable privilege in the business of renting, leasing or letting any living quarters in connection with any trailer camp as defined by section 144.550. For the purpose of said privilege a tax is hereby levied in an amount equal to three per cent of and on the total charge for such living quarters by the person charging or collecting the rental; provided, that such tax shall apply to trailer camps as defined in sections 144.550 to 144.590, whether or not there be in connection with the same, any dining room, cafes, filling stations, or other business where merchandise or service of any kind is sold or offered for sale to the public.

"2. The tax provided for herein shall be in addition to the total amount of rental and shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person receiving such rental payment. The owner or lessor shall remit the tax to the collector of revenue at the times and in the manner provided for retailers to remit taxes under the Missouri sales tax act. The same duties imposed by the said sales tax act upon dealers at retail in tangible personal property respecting the collection and remission of the tax, the making of returns, the keeping of books and records and the

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compliance with the rules and regulations of the department of revenue in the administration of the said sales tax act shall apply to and be binding upon all persons who manage or operate trailer camps, and to all persons who collect or receive such rents on behalf of an owner taxable under sections 144.550 to 144.590. Violations of sections 144.550 to 144.590 shall be punishable in the same manner and to the same extent as provided in said sales tax act."

Furthermore, by Section 144.480 RSMo 1949, all revenue collected or received by the Director of Revenue from the sales tax shall be deposited in the state treasury, to the credit of the ordinary revenue fund; whereas, the proceeds from the tax imposed by House Bill No. 369 are to be placed, by Section 144.590, V.A.M.S., 1953 Supplement, in a special fund to be known as the "trailer camp school tax fund", which is credited in the state treasury and is to be paid back to the several counties of the state, to be allocated to the school district of the county in that proportion which the amount of tax collected in each district bears to the total amount collected in the county, and shall be used only for the support of the other public schools in said districts.

From the above, it seems clear to us that House Bill No. 369 is not a sales tax, and that, therefore, exemptions to the application of the sales tax law would not apply to House Bill No. 369.

Your specific question is whether House Bill No. 369 would apply "though such trailer camp may be operated solely for the use of student bodies or personnel affiliated with such institutions exempt from sales tax."

In regard to this matter we note Section 144.550 V.A.M.S., 1953 Supplement, which reads:

"As used in sections 144.550 to 144.590 the term 'trailer camp' shall mean a place where space is offered, with or without service facilities, by any person or municipality to the public for parking and accommodation of two or more automobile trailers which are used for lodging, for either money consideration or an indirect consideration or benefit to the lessor or owner in connection with a related business, such space being hereby defined as 'living quarters', and the rental price paid therefor shall include all service charges paid to the lessor."

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Since a trailer camp in which space is rented solely to students or affiliated personnel of an educational institution does not come within the definition of "trailer camp", as the term is used in House Bill No. 369, which means a place where space for automobile trailer parking is offered to the public, we do not believe that House Bill No. 369 has any application to trailer space rented by educational institutions to its student or affiliated personnel, since such educational institution does not offer such rental space to the public.

CONCLUSION

It is the opinion of this department that House Bill No. 369 is not a part of the Missouri Sales Tax Law, and that, therefore, exemptions to the application of the Missouri Sales Tax Law do not apply to House Bill No. 369.

It is our further opinion that trailer space rented by educational institutions to its students or affiliated personnel is not subject to the application of House Bill No. 369, since such space is not offered for rental to the public.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

HPW/ld