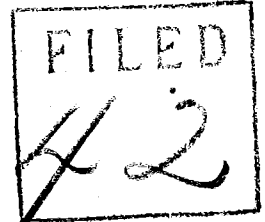


PENITENTIARY:
INTERMEDIATE REFORMATORY:

Transactions between the Penitentiary and the Intermediate Reformatory may be handled on a system of debits and credits.

November 26, 1947



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Honorable B. H. Howard
Comptroller
Department of Revenue
Jefferson City, Missouri

Dear Sir:

We have your letter requesting an opinion of this office, which said letter reads as follows:

"We refer to an opinion dated July 18, 1947 furnished to Hon. Thomas E. Whitecotton, Director of the Department of Corrections, stating that, 'Transactions between various industries under the control of the Department of Corrections, and between the Penitentiary and said industries may be handled by a system of debits and credits'.

The Department of Corrections now proposes to extend this system of debits and credits to transactions between the Penitentiary and the Intermediate Reformatory. For instance, the Penitentiary will sell clothing to the Intermediate Reformatory in the amount of \$1,000.00, and the Intermediate Reformatory during the same period of time will sell produce to the Penitentiary in the amount of \$900.00. Under the present system, each institution would pay the other the full amount due. Under the proposed system, settlement would be made periodically on a net basis, and in the instance cited above, the only payment made would be \$100.00 by the Intermediate Reformatory to the Penitentiary.

We will appreciate an opinion as to whether or not settlement of such transactions between the Penitentiary and the Intermediate Reformatory on a net basis is proper."

You refer to an opinion of this office in which we held that transactions between various industries under the control of the Department of Corrections and between the penitentiary and said industries may be handled by a system of debits and credits. The reasoning in that opinion was to the effect that since the industries in the penitentiary were all under the control of the Department of Corrections, exchanges of materials or manufactured articles between the various industries and between the penitentiary and said industries did not amount to sales and hence did not require payment of cash with each transaction, but that said transactions could be handled by a system of debits and credits. If the legal relationship between the penitentiary and the Intermediate Reformatory is similar or comparable to that existing between the penitentiary and the industries operated by it, then it would follow that transactions between the penitentiary and the Intermediate Reformatory could be handled on a similar system of debits and credits. We must, therefore, consider the various statutes which relate to the penitentiary and the Intermediate Reformatory in order to determine what the relationship between those two institutions is.

Section 1, page 724, Laws 1945, reads as follows:

"There is hereby created and established as a department of state government a department of corrections, which may hereafter be referred to as the department. The scope and purpose of the department shall be to supervise and manage the penal, correctional and reformatory institutions of the state, together with certain duties in relation to the training schools and the board of probation and parole, hereafter set out. The department of corrections shall be composed of three divisions, namely:

- (1) the division of penal institutions,
- (2) the division of educational institutions,
- and (3) the board of probation and parole.

The board of penal commissioners, as established by Article I, Chapter 48, Revised Statutes of Missouri, 1939, with amendments thereto, is hereby abolished and discontinued and all powers and duties over activities and institutions pertaining to,

controlled by and administered through the board of penal commissioners, shall henceforth be vested in and administered through the department of corrections, together with any additional powers and duties which may herein or hereafter be assigned to the department."

By the foregoing section the supervision and management of "penal, correctional and reformatory institutions of the state" are vested in the Department of Corrections. Thus the penitentiary and the Intermediate Reformatory are both under the supervision and management of the same department.

Sections 10 and 11, page 726-727, Laws 1945, provide as follows:

"There is hereby created and established within the department of corrections a division of penal institutions. The division of penal institutions shall be the successor to and shall possess and exercise all the powers and duties of the commission of penal institutions with respect to institutions and activities pertaining to intermediate and adult offenders, including all such powers and duties not specifically repealed by this act, in addition to possessing other powers and duties established by this act."

"In all laws of Missouri or parts thereof, the words 'department of corrections' shall be substituted for the words 'commission of penal institutions' with respect to institutions and activities pertaining to intermediate and adult offenders. Said department shall hold and exercise control and jurisdiction over all intermediate and adult correctional and penal institutions and activities in this state, except such powers and duties as may be assigned to the board of probation and parole, supported in whole or in part by the direct appropriation of money out of the state treasury, including the state penitentiary, the women's branch of the state penitentiary, the intermediate reformatory for young men at Algoa,

and over any other correctional institution for intermediate and adult offenders as may hereafter be established; and over all the branches of such institutions, and over all the real estate, building, equipment, machinery, facilities and products properly belonging to or used by or in connection with said institutions and branches thereof, and over the activities of these institutions and branches; and the department shall make and enforce such orders and findings as it may from time to time deem necessary and proper in the management of all institutions and persons committed to its control and shall be vested with and possessed with all other powers and duties necessary and proper to enable it to carry out fully and effectively all the purposes of this act."

By Sections 10 and 11, supra, all the powers and duties formerly exercised by the Commission of Penal Institutions with respect to the Intermediate Reformatory are now vested in the Division of Penal Institutions of the Department of Corrections, and we turn now to see what those powers were.

Section 9109, R. S. 1939, reads as follows:

"The intermediate reformatory for young men shall be under the management of the department of penal institutions, but it shall be established separate and apart from the Missouri penitentiary and also the Missouri training school for boys now located at Boonville."

Section 9119 provides for the establishment of industries in the Intermediate Reformatory, and reads as follows:

"It shall be the duty of the department of penal institutions to provide for teaching the inmates in the common branches of an English education; also in profitable and useful trades and to offer such employment in industries, agriculture and such other vocations as will enable them, upon their release, to more surely earn their own support and make self-reliant and self-supporting citizens, and as will contribute materially to the support of the institution."

By the two preceding sections it is provided that industries shall be established to furnish employment for the inmates of the Intermediate Reformatory.

Sections 9124, 9125 and 9146, R. S. 1939, deal with the financial affairs of the Intermediate Reformatory, and they read as follows:

Section 9124:

"The commission shall attend to the financial concerns of the intermediate reformatory for young men and shall pay into the state treasury all moneys received by them on account of the institution, and shall keep in suitable books regular and complete accounts of all moneys received, and from what source, and shall have vouchers for all money disbursed. The books shall exhibit the profits or losses of each branch of manufacturers."

Section 9125:

"The commission shall, on or before the tenth day of each month, deposit with the state treasurer all moneys which have been received by it from any contractor or other person, or for any article manufactured or sold for the state, or any money received from any other source belonging to the state, same having been divided as provided in Section 9098, taking his receipt therefor, which receipt shall be filed with the monthly statement of the commission, as herein provided, and the state treasurer shall take charge of same and pay it out only for the use and support of said prison, upon the warrant of the state auditor, which shall be drawn on the requisition of the commission. And said commission shall, on or before the tenth day of each month, make and enter in proper books a full and accurate account of all moneys received and expended, on what account received or expended, and shall accompany said statement with proper vouchers therefor, and pay out said funds as directed in Sections 9099, 9100 and 9101."

Section 9146:

"All moneys derived from the sales of any articles manufactured in any of said industries in this article referred to, shall be collected by said board and paid into the treasury of the state to the credit of the following funds: Said board shall ascertain and determine on the first of each month from the books, records and accounts kept showing the business operations of the intermediate reformatory, the amount of money received each month due to the purchase of raw material for use and manufacture, and said sum when so determined shall be deposited in the 'revolving fund', and said board shall further determine what part of said receipts are due to labor and other profits in the operation of said intermediate reformatory, and said amount shall be deposited in the 'earning fund;' and it is hereby made the duty of the treasurer of the state to carry on the books of his office as separate accounts the said 'revolving fund' and said 'earning fund,' Said 'revolving fund' shall not be used in whole or in part for any purpose or purposes other than those named in sections 9095, 9096 and 9097. The money deposited in the 'earning fund' shall be used by the prison board for the use of, support and maintenance of said prison, and such expenses as come under section 9052, and the treasurer shall pay same upon the warrant of the state auditor which shall be drawn on the requisition of the board."

Sections 9124, 9125 and 9146, supra, provide arrangements for handling the funds of the Intermediate Reformatory which are the same as those provided for handling the funds of the Penitentiary as set forth in Sections 9097 and 9098. When a sale is made of articles manufactured by either institution, the proceeds are to be divided as set forth in Section 9098 and then deposited to the respective funds mentioned in Section 9098. Section 9125 provides that the proceeds from the sale of articles manufactured by the Intermediate Reformatory shall be divided as provided by Section 9098 and then deposited in "the 'revolving fund'" and "the 'earning fund'". The only revolving

fund provided for by law is that provided for in Sections 9097 and 9098, and the only earning fund is that provided for by Section 9098. Therefore, the money realized from the sales of articles manufactured by either industries connected with the Penitentiary or those connected with the Intermediate Reformatory are deposited in the same funds and by the same agency. How much any one industry deposits to said fund or withdraws from said fund is a matter of bookkeeping. Whether a sale be made on behalf of the Penitentiary or the Intermediate Reformatory, the Department of Corrections makes the sale, divides the proceeds and deposits the money in the same fund. When a transfer of products between the Penitentiary and the Intermediate Reformatory occurs, no sale is in fact made. If a warrant were to be issued for such a transfer, it would be issued by the Department of Corrections, payable to the order of the Department of Corrections and deposited by the Department of Corrections in the funds which are used by the Department of Corrections for the operation of both the Penitentiary and the Intermediate Reformatory. No purpose would be served in going through such a procedure. Proper debits and credits would show which industry produced and which received the products transferred, and the revolving and earning funds would be the same as if warrants were issued against and thereafter deposited to the same funds. The amount of said funds would not be changed by either method of handling such transfers. At such stated intervals as the Department of Corrections may think proper, it can settle the accounts between the two institutions in order that a clear picture of the operations of the two institutions can be more readily seen.

Conclusion

It is, therefore, the opinion of this office that transactions between the Penitentiary and the Intermediate Reformatory may be handled by a system of debits and credits with settlements periodically on a net basis and that it is not necessary to issue warrants in payment of articles transferred from one of said institutions to the other.

Yours very truly,

HARRY H. KAY
Assistant Attorney General

APPROVED:

J. E. TAYLOR, Attorney General

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