

TAXATION - (

SALES TAX (

Charges for use of skates at a skating rink are not subject to sales tax, but if charge is made to go on floor to skate, it is taxable.

September 11, 1943

Honorable Harry T. Limerick, Jr.,  
Member, Missouri House of Representatives  
Columbia, Missouri

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53

Dear Sir:

This is in reply to yours of recent date wherein you submit the following request:

"Confirming my telephone conversation with you this morning in which I raised the question of whether the sales tax applied to roller rinks not charging admission but charging those who used the floor for skating purposes. It has been my opinion that where an admission is not charged and the charge is only made for the users of the floor for skating that no tax would be due. The same as bowling alleys or pool tables. I know the rules and regulations of the department exempt pool tables and bowling alleys. I can see no distinction between the two. I will appreciate it if you will advise me what your opinion is."

In our opinion dated August 21, 1937 to Mr. Orr we concluded as follows:

"The Legislature having failed to embrace within the definition of the term 'sale at retail' in Section 1 of the Act, those who play in games of Billiard, Pool, Bowling or any other game for which the participants pay a fee or charge to the proprietor for the use of the equipment, and having failed in Section 2 of the Act to levy and impose a tax upon the amount paid for the use of tables, balls and alleys by those who participate in games and athletic events, and by a strict construction of the Sales Tax Act, so far as it applies to the aforesaid subjects,

Sept. 11, 1943

but not such a strict construction as to destroy the intention of the Legislature, it is the opinion of this department that the amount which a party pays for the use of the tables, balls or alleys or for any other paraphernalia used in playing games, or the amount a party pays for playing pool, billiards, bowling or any other game or athletic event in which he participates as a player is not subject to the provisions of the 2% Sales Tax Act and is not taxable under the Act. "

By this opinion we held that where the charge is for the use of the paraphernalia used for gaming or recreation, then the sales tax is not chargeable.

However, you state in your letter that the charge is made to those who go on the floor.

Sub-section "1" of Sub-Section "G" of Section 11407, R. S. 1939, provides as follows:

"Sales of admission tickets, cash admissions, charges and fees to or in places of amusement, entertainment and recreation, games and athletic events."

If the charge is made in the skating rink for the privilege of going onto the floor to skate then we think the charge would be taxable. However, if the charge is for the use of the skates on the floor, then under the Orr opinion the transaction would not be taxable.

#### C O N C L U S I O N .

From the foregoing it is the opinion of this department that the moneys collected at a skating rink for the use of skates and the floor for skating, are not subject to the sales tax, but that if a charge

Hon. Harry T. Limerick, Jr. -3-

Sept. 11, 1943

is made for going on to the skating rink floor that such charge is subject to the tax.

Respectfully submitted

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APPROVED:

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ROY McKITTRICK  
Attorney General