

DIRECTOR OF REVENUE:
DIVISION OF PENAL INSTITUTIONS:
MOTOR VEHICLE REGISTRATION:

(1) Registration plates and signs to be supplied Director of Revenue at cost of manufacture or not to exceed open market cost, whichever is greater. (2) No accounting method for recoupment of interdepartmental overcharges.



May 1, 1953

Honorable M. E. Morris
Director of Revenue
State of Missouri
Jefferson City, Missouri

Dear Sir:

Reference is made to your request for an official opinion of this department, reading as follows:

"I am informed by the Motor Vehicle Division that license plates are billed to our department at \$0.18 and \$0.20 each. I have data from each of the states and I believe the most glaring example is our neighboring state of Arkansas, which purchases its tags from a Missouri firm, the S. G. Adams Stamp & Seal Company, Saint Louis, Missouri, at a price of \$0.1148 each, which price includes delivery of the tags to each of the seventy-five counties in the state of Arkansas.

"The Arkansas plates are made of 26-gauge steel, which is the same weight used locally.

"I am informed that the cost of the manufacture of the plates furnished this department by the Missouri Penitentiary is \$0.12 plus. No doubt, the same percentage of profit is now added to stickers and tabs.

"I would appreciate your opinion as to whether or not it is the duty of the Division of Penal Institutions, in

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view of the above figures, to sell tags to our department on the basis of their cost. Also, should not a credit be entered in our favor on their books for an amount equal to the difference between the amount paid to them and the price at which an outside firm would have sold these tags to the state? If such a credit should be allowable, for how many years could it be computed?"

Your inquiry resolves itself into these three questions:

(1) At what price is the Division of Penal Institutions required to furnish the Director of Revenue motor vehicle registration plates and signs;

(2) If an overcharge has resulted in prior years arising from an improper method of computing such price, is the Department of Revenue entitled to a refund or credit with respect to such overcharge from the Division of Penal Institutions; and,

(3) For how many prior years should such refund or credit be computed after discovery of such overcharge.

We shall discuss your questions in the order set forth.

With respect to (1) above, we direct your attention to Section 301.290, RSMo 1949, reading in part as follows:

"301.290. * * * 2. The Director of revenue shall procure all plates issued by him * * * from the division of penal institutions * * * .

"3. The division of penal institutions shall furnish such plates and signs at such a price as will not exceed the price at which such plates and signs may be obtained upon the open market, but in no event shall such price be less than the cost of manufacture, including labor and materials. * * * "

Our construction of paragraph three of Section 301.290,

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RSMo 1949, quoted supra, is this. The Director of Revenue should periodically ascertain the price at which registration plates may be procured in the open market. Upon determining such price it is the duty of the Division of Penal Institutions to manufacture and furnish to the Director of Revenue such plates as may be needed by him in connection with motor vehicle registration, at such predetermined price, unless the actual cost of manufacturing such plates by the Division of Penal Institutions, including labor and materials, is in excess of such predetermined price in the open market. In the latter event, the Division of Penal Institutions shall receive for such plates the actual cost of manufacture, taking into account the cost of labor and materials necessarily employed in such manufacturing operations.

In your letter of inquiry you have indicated that the present charges made by the Division of Penal Institutions are \$0.18 and \$0.20 each for plates. It also appears that such plates might be procured in the open market at a price of approximately \$0.11½ each. You have further indicated that the actual cost of manufacture to the Division of Penal Institutions is approximately \$0.12 each.

Of course, the mere fact that plates are being supplied to another state at one price does not necessarily indicate that a similar figure would represent the cost in the open market if supplied to Missouri. However, assuming that it be determined that the open price market in Missouri is less than the actual cost of manufacture by the Division of Penal Institutions, then it is our thought that it is incumbent upon the Division of Penal Institutions to supply such plates to the Director of Revenue at a price representing the actual cost of manufacture.

We have examined the various statutes relating to the funds and bookkeeping methods with regard to interdepartmental transactions. We do not find that any method has been provided for the adjustment of overcharges which might arise as a result of such transactions.

What has been said heretofore disposes of the third question presented in your letter of inquiry.

CONCLUSION

In the premises, we are of the opinion that:

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(1) It is the duty of the Division of Penal Institutions to furnish the Director of Revenue such motor vehicle registration plates and signs as may be needed by such official at a price not to exceed the cost of such plates in the open market, unless the actual cost of manufacture of such plates, including the cost of materials and labor, is greater than such open market cost. In the latter event, the Division of Penal Institutions shall charge for such plates the actual cost of manufacture, including the cost of labor and materials.

(2) We are further of the opinion that no method exists by which overcharges arising from interdepartmental business dealings may be adjusted.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

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