

TAXATION: Proceeds of use tax imposed by Paragraph (c) of
Section 11412, Mo. R.S.A., to be credited to
REVENUE: State Highway Department fund.

September 9, 1948



Honorable G. H. Bates
Collector of Revenue
Jefferson City, Missouri

9-13

Dear Sir:

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

"Under H. B. 258, passed by the 64th
General Assembly, effective July 18,
1948, a use tax is imposed in Section
11412, paragraph C.

"Since this paragraph imposes a tax for
the privilege of using the highways of
this state, it was my impression that the
tax collected under this particular para-
graph should be deposited in the state
treasury to the credit of the State High-
way Department Fund. However, I find
that there seems to be some difference of
opinion in the matter, so before making
my first deposit, I am writing to ask
whether in your opinion the proceeds of
this tax should be deposited in the State
Highway Department Fund or the General
Revenue Fund."

House Bill No. 258 of the 64th General Assembly, referred
to in your letter of inquiry, now appears in part as Section
11412, Mo. R.S.A. Paragraph (c) of said section reads in
part as follows:

"(c) In addition to all other taxes now
or hereafter levied and imposed upon every
person for the privilege of using the high-
ways of this state, there is hereby levied
and imposed a tax equivalent to two per
cent of the purchase price, as defined in
subsection (b) hereof, which is paid or
charged on new and used motor vehicles
purchased or acquired for use on the high-
ways of this state which are required to
be registered under the laws of the State
of Missouri. * * * * "

It is clear that under the provisions of this paragraph, a use tax has been imposed upon owners and operators of motor vehicles for the privilege of operating the same upon the highways of the state. In these circumstances, we think it pertinent to your inquiry to direct your attention to a portion of Section 30, Article IV of the Constitution of Missouri, reading in part as follows:

"For the purpose of constructing and maintaining an adequate system of connected state highways all state revenue derived from highway users as an incident to their use or right to use the highways of the state, including all state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon, with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes,) * * * * shall be credited to a special fund and stand appropriated without legislative action for the following purposes, and no other:"

From the quoted portion of the Constitution, it seems clear that the proceeds of the use tax imposed under the statute quoted above stand appropriated to the State Highway Department fund.

CONCLUSION

In the premises, we are of the opinion that the proceeds of the use tax imposed under the provisions of Paragraph (c) of Section 11412, Mo. R.S.A., are to be deposited to the credit of the Missouri State Highway Department fund, under the provisions of Section 30, Article IV of the Constitution of Missouri.

Respectfully submitted,

WILL F. BERRY, JR.
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General *J.E.*

WFB:VLM