

FILE NO. 105407

February 20, 1962

Mr. Hiram L. Schoonfield, Warden  
Baltimore City Jail  
Eager and Buren Streets  
Baltimore 2, Maryland

Dear Mr. Schoonfield:

On December 22, 1961, you sent to this office a letter requesting an opinion as to any tax relief to which the Commissary being operated in the Baltimore City Jail may be entitled in reference to City and State taxes. As you stated, the Commissary store sells to the inmates at a "reasonable price" tobacco, candy, and sundry other items. The profits from the sale of these items are paid into "the inmates' welfare fund," which fund is used for the benefit of those inmates who have no funds available with which to purchase such items as tobacco, personal articles, eye glasses, etc., and for paying the cost of certain group projects.

Specifically, you requested an opinion as to whether or not sales in this store are exempt from the State Sales Tax, the State Tobacco Tax and the Baltimore City Tobacco Tax. Each one of these items will be discussed separately.

RETAIL SALES TAX

The provisions of the retail sales tax are contained in Sections 324 through 400 of Article 81 of the Annotated Code of Maryland (1957). If sales in the jail store are exempt, authority for the exemption would have to be found in Section 326 of Article 81, which provides as follows:

"Sales to nonprofit, charitable, etc., organizations. - Sales to any person operating a nonprofit religious, charitable, scientific, literary or educational institution or organization situated in this State when such tangible personal property is purchased for use in carrying on the work of such institution or organization; provided that the word 'person,' as used in this subsection shall not include the United States of America or any agency or instrumentality thereof."