

Mr. Hiram L. Schoonfield, Warden
Baltimore City Jail

(continued)

This sub-section does not provide an exemption from the sales tax where the non-profit organization purchases the items for re-sale, but merely provides that a non-profit organization may purchase items to be used in carrying on the work of said organization. This section further limits the type of non-profit organization to either religious, charitable, scientific, literary or educational institutions.

In the past relief from the sales tax has been denied to the Commissaries operating in the Maryland State Penitentiary, and other state penal institutions. It is the opinion of this office that your Commissary must continue to collect a sales tax on those items sold at a cost of more than 25 cents.

STATE TOBACCO TAX

The provisions of the State Tobacco Tax Act are contained in Sections 431 to 464 of Article 81 of the Annotated Code of Maryland (1961 Suppl.). Section 431, sub-section (a) provides as follows:

"Levy. - In addition to any and all other taxes which have been or may hereafter be levied and imposed by the State of Maryland, there is hereby levied and imposed a tax to be paid and collected, as hereinafter provided, on all cigarettes used, possessed or held in the State of Maryland by any person for sale or use in the State of Maryland on or after July 1, 1957."

Section 432 only exempts from this tax sample cigarettes in packages containing five or less, and cigarettes held for sale in armed forces post exchanges.

There is no exemption from the tax as to non-profit organizations of any kind, and it is therefore this office's opinion that cigarettes sold by your Commissary are subject to the cigarette tax.