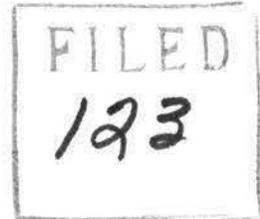


March 23, 1970

OPINION LETTER NO. 123

(Answered by letter-
Nowotny)

Mr. Oscar J. Chapman
Administrative Dean
Lincoln University
Jefferson City, Missouri 65101



Dear Dean Chapman:

This is in answer to your request for an official opinion of this office, which request reads as follows:

"Lincoln University will begin the operation of its own bookstore on January 27, 1970. Therefore, the Bookstore Committee, of which I am the chairman, wishes to get from the Office of the Attorney General an opinion concerning the following question:

"Will Lincoln University be required to collect and submit to the Department of Revenue the Missouri three (3) percent sales tax on the sales which are transacted by the Lincoln University Bookstore?

"Your opinion concerning the matter indicated above will be greatly appreciated. Thank you."

If such sales are exempt from the sales tax it would be under the provisions of Section 144.040, RSMo 1959, which reads as follows:

"In addition to the exemptions under section 144.030 there shall also be exempted from the provisions of sections 144.010 and 144.510

Mr. Oscar J. Chapman

all sales made by or to religious, charitable, eleemosynary institutions, penal institutions and industries operated by the department of penal institutions or educational institutions supported by public funds or by religious organizations, in the conduct of the regular religious, charitable, eleemosynary, penal or educational functions and activities, and all sales made by or to a state relief agency in the exercise of relief functions and activities."

We note that Lincoln University is an educational institution supported by public funds.

It is our understanding that the bookstore is being established to sell books and education related supplies to students and members of the faculty on a non-profit plan. We find no Missouri authority in point but an exemption is supported by *Squire v. Students Book Corporation*, 191 F.2d 1018, where the United States Court of Appeals held that a corporation wholly owned by an educational institution that sold books and supplies to students and faculty members and returned any and all profits to the educational institution was exempt from federal income taxation as being operated exclusively for an educational purpose. The court noted that the business enterprise in which the taxpayer was engaged bore a close and intimate relationship to the functioning of the college.

An exemption is also supported by the definition of educational purposes in 28 C.J.S., pages 834 and 835:

"A broad phrase, including all those uses which reasonably serve the purposes of education as it is commonly understood. As applied to a school, the term is not limited to purposes of class-room work solely, but includes any activity necessary to the proper maintenance and operation of a school.

Therefore, it is our conclusion that the bookstore is being operated as an educational function or activity of the University and is exempt from the sales tax under Section 144.040, RSMo 1959.

Very truly yours,

JOHN C. DANFORTH
Attorney General