

TAXATION: Farmers who hatch chickens or buy baby chicks and raise  
MERCHANT'S such chickens and ship them to market are not "merchants,"  
TAX: and such chickens as they own should be assessed as per-  
sonal property on Jan. 1st of each year. Farmers who raise  
minks and sell pelts and breeding stock are not "merchants,"  
and should be assessed Jan. 1st of each year on value of  
minks owned at such time.

June 3, 1948

Honorable G. Logan Marr  
Prosecuting Attorney  
Morgan County  
Versailles, Missouri



Dear Sir:

This is in reply to your letter of recent date requesting  
an official opinion of this department and reading as follows:

"The county assessor has asked me how the  
following business establishments will be  
assessed for taxes, for 1948 and future  
years:

"A-We have in this county several farms  
converted into 'broiler factories.'  
These places have the necessary equip-  
ment to either hatch their own chickens,  
or else they buy the baby chickens al-  
ready hatched and raise them for the  
city markets. Now on Jan. 1 of each  
year they do not have any baby chickens  
on feed, or for sale. But in the first  
four to five months of the year the  
batteries will be full of these chickens  
being processed for the market. Are  
these establishments to be assessed under  
the merchants tax law? The sale of broil-  
ers amounts to quite a sale, but there is  
not very much on hand to assess on Jan. 1  
of each year. If they make report of the  
chickens for sale, and be assessed on  
their largest sales like a merchant, then  
the establishments would bring in some  
taxes.

"B-In this county, we have mink farms. The  
breeding animals are worth \$100.00 to  
\$300.00 per pair. On Jan. 1 the breeding

stock are on hand. The mink raised and killed for skins are killed after the first of January. The revenue from the mink farm is in the pelts sold and the breeding stock sold. This is all after the 1st of the year. What is to be assessed, the sales of the pelts sold? Or, is this mink farm to be assessed as a merchant whose stock in trade is or are the minks killed and sold for the pelts? How are these kinds of establishments to be assessed?

"I am making a request for an official opinion on these kinds of special assessments."

Section 11303, Laws of Missouri, 1945, page 1838, provides as follows:

"Every person, corporation, copartnership or association of persons, who shall deal in the selling of goods, wares and merchandise at any store, stand or place occupied for that purpose, is declared to be a merchant. Every person, corporation, copartnership or association of persons doing business in this state who shall, as a practice in the conduct of such business, make or cause to be made any wholesale or retail sales of goods, wares and merchandise to any person, corporation, copartnership or association of persons, shall be deemed to be a merchant whether said sales be accommodation sales, whether they be made from a stock of goods on hand or by ordering goods from another source, and whether the subject of said sales be similar or different types of goods than the type, if any, regularly manufactured, processed or sold by said seller."

Section 11329, Laws of Missouri, 1945, page 1838, provides as follows:

"Any farmer residing in this state who shall grow or process any article of farm produce or farm products on his farm, is hereby authorized and permitted to vend, retail or

wholesale said products, free from license, fee or taxation from any county or municipality, in any quantity he may choose, and by doing so shall not be considered a merchant; provided, he does not have a regular stand or place of business away from his farm. And provided further, that any such produce or products shall not be exempted from such health or police regulations as any community may require."

Section 10, Laws of Missouri, 1945, page 1782, provides, in part, as follows;

"\* \* \* After receiving the necessary forms the assessor or his deputy or deputies shall, except in the City of St. Louis, between the first day of January and the first day of June, 1946, and each year thereafter, proceed to make a list of all real and tangible personal property in his county, town or district, and assess the same at its true value in money in the manner following, to wit: He shall call at the office, place of doing business or residence of each person required by this chapter to list property, and shall require such persons to make a correct statement of all taxable real and tangible personal property in the county owned by such person, or under the care, charge or management of such person, except merchandise which may be required to pay a license tax and except all other property which may be exempted by law from taxation. \* \* \* The list shall then be delivered to the assessor. Such lists shall contain: \* \* \* the number of domesticated rabbits, domesticated animals of all kinds and all other live stock and their value; the number of poultry including chickens, guineas, ducks and geese and their value \* \* \*."

Since you state in your letter that the chickens raised on these farms are processed and shipped to the city market, we believe that under the provisions of Section 11329, supra, a person raising such chickens, whether he hatches them or purchases them, is not a "merchant" since such chickens are "farm produce or farm products." The chickens belonging to the per-

son operating such farm on January 1st of each year should be assessed as personal property on January 1st of each year.

The farmers who raise minks, under the provisions of Section 11329, supra, are exempted from taxation as "merchants." The farmers owning such minks should be assessed on January 1st of each year for the value of such minks since such minks are "domesticated animals."

#### CONCLUSION

It is the opinion of this department:

(1) That farmers who hatch chickens or buy baby chicks and raise such chickens, process them and ship them to the market are not "merchants," and that such chickens as they own should be assessed as personal property on January 1st of each year.

(2) That farmers who raise minks and sell the pelts and breeding stock are not "merchants" and should be assessed January 1st of each year on the value of the minks they own at such time.

Respectfully submitted,

C. B. BURNS, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General