

February 14, 1964

Opinion No. 363 (1963)  
No. 8 (1964)  
Answered by letter

Mr. John W. Ridgeway  
Deputy Commissioner of Finance  
Jefferson Building  
Jefferson City, Missouri

Dear Mr. Ridgeway:

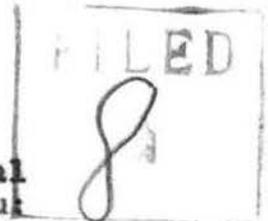
This letter of advice is written in lieu of a formal opinion touching the following question submitted by you:

"Are assigned accounts receivable within the language 'collateral security having an ascertained market value', as the same is found in Section 362.170(1) (b) RSMo 1959?"

That portion of Section 362.170 (1), (b), RSMo 1959, as amended, referred to in your question, contains a directive that certain described loans by banks be secured by "collateral security having an ascertained market value" equaling a designated percentage of the liabilities so secured.

In 1942 this office rendered an opinion bearing date of March 18, 1942, to D. R. Harrison, then Commissioner of Finance. Such opinion was addressed to the term "actual market value" as such term is used in Section 362.170 (1), (c) RSMo 1959, as amended, such cited subparagraph of the statute making reference to collateral security of warehouse receipts. A review has been made of definitions of "market value" set forth in the opinion of this office dated March 18, 1942, and such definitions have not changed to this date.

No court decision has been found specifically holding that accounts receivable have an "ascertained market value". As early as 1879, the St. Louis Court of Appeals held in *Bank of North America, Resp., v. Tamblin*, App., 7 Mo. App. 571, that a bank could take an assignment from a corporation of an account due to the corporation. The following language from *State ex rel. Globe-Democrat Publishing Company v. Gehner*, 316 Mo. 694, 1.c. 696, 294 S.W. 1017, demonstrates that accounts receivable are property:



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"Accounts receivable are amounts owing to a creditor on open account. [Newport Nat. Bank v. Herkimer Co. Bank, 225 U.S., 1.c. 184, 56 L.Ed. 1042]. They are in the nature of credits which, under the statute (Sec. 12967, R. S. 1919), include 'every claim or demand of money, interest or other valuable thing, due or to become due'. Thus defined they are declared by the statute above cited to be personal property. As such they are proper subjects of taxation within the limitations stated."

An ascertained market value is merely a "found" market value. While accounts receivable in various localities may be more or less difficult to determine they nevertheless have an "ascertained market value".

We enclose a copy of the opinion of this office referred to in this letter for your guidance. If you will acquaint this office with the character of accounts receivable mentioned in your inquiry we will be in a better position to advise you.

Yours very truly,

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THOMAS F. EAGLETON  
Attorney General

JLO/dg  
Encl.