



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

June 6, 1957

Hon. Robert S. Calvert
Comptroller of Public Accounts
Capitol Station
Austin, Texas

Opinion No. WW-146

Re: Whether the Cigarette Tax Law allows
the use of certain new type stamp and
the use of a machine to transfer the
stamps to the cigarette packages.

Dear Mr. Calvert:

Your letter requesting our opinion in reference to the captioned matter reads as follows:

"Sec. 1(e) of the Cigarette Tax Law defines a 'Stamp'. Section 3 provides for a 'Cigarette Tax Stamp Board' and outlines the duties of the Board with respect to securing cigarette tax stamps.

"The manufacturer that has our present cigarette tax stamp contract contemplates in the near future perfecting a machine that will transfer stamps to packages of cigarettes. The present stamp is a water stamp and has to be transferred by hand. The new stamp will be a heat stamp and transferred by the new machine. The new stamp is similar in appearance to our present stamp and will be serially numbered.

"Would the provisions of our Cigarette Tax Law allow the use of the new type stamp and the use of the machine to transfer the stamps?"

Section 1(e) of Article 7047c-1, Vernon's Civil Statutes, defines "Stamp" as follows:

"'Stamp' shall mean the stamp or stamps printed, manufactured or made by authority of the Board as hereinafter defined, and issued, sold or circulated by the Treasurer and by the use of which the tax levied hereunder is paid."

Section 3(a) of Article 7047c-1, V.C.S., provides:

"A 'Cigarette Tax Stamp Board' composed of the Board of Control of this State, designated hereafter as the 'Board' is hereby

created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act."

In addition to the above quoted sections, we have also considered the other provisions of the Cigarette Tax Law and we have been unable to find any provisions therein which, as a matter of law, will conflict with the use of the "new type stamp" or the use of the machine to transfer the stamps to the cigarette packages. Sec. 3(a) of said article provides that the "Cigarette Tax Stamp Board" shall award contracts for the printing or manufacturing of stamps to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of the Act. Whether the new type stamp and machine will or will not afford the greatest and best protection to the State in the enforcement of the Act, is a fact question to be determined by said Board.

SUMMARY

The provisions of Article 7047c-1, The Cigarette Tax Law does not prohibit the use of a new type heat stamp to be transferred to packages of cigarettes by a machine to


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evidence the payment of the
cigarette tax.

Yours very truly,

WILL WILSON
Attorney General

By



W. V. Geppert
Assistant

WVG:gs

APPROVED:

OPINION COMMITTEE
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REVIEWED FOR THE ATTORNEY GENERAL

BY:

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