GROSS INCOME AND STORE LICENSE TAX: Stores—license fees in case of separate locations.

August 15, 1933.

Mr. Norman Gordon,
Auditor and Claim Adjuster,
Store License Division,
Department of Treasury,
Indianapolis, Indiana.

Dear Sir:
I have before me your request for an opinion with reference to the taxability of various concessions operated by Ringling Brothers and Barnum and Bailey Circus.

From your explanation, there are ten separate locations on the grounds at which sales of merchandise are made. In my opinion, each one of these locations should be treated as a separate store and the tax paid accordingly.

VETERINARIAN, STATE: Vaccination of hogs sold at auction sale barn.

August 18, 1933.

Hon. J. L. Axby,
State Veterinarian,
Livestock Sanitary Board,
Indianapolis, Indiana.

Dear Sir:
I have before me your request for an official opinion relative to the vaccination of hogs sold at auction sale barns, community sales, and stock yards not under federal supervision, located in the State of Indiana. Your inquiry presents the following question:

“May unvaccinated hogs be sold at sales barns, community sales, or public stock yards after presentation there for sale where the sale is made direct from the truck and hogs are not unloaded into any pen or pens, enclosures or barns?”

Chapter 56 of the Acts of 1933, page 416, at 419, we find the following:

“Any swine sold or offered for sale through such auction sale barns and not accompanied with the own-
er's affidavit approved as prescribed in section 7 of this act, stating that such swine have been vaccinated against hog cholera, shall be vaccinated by a qualified veterinarian or, in the discretion of such veterinarian, shall be treated with an adequate dose of anti-hog cholera serum, before being removed from such auction sale barn; Provided, however, That healthy swine may be removed from such auction sale barn for immediate slaughter without vaccination. No swine manifesting symptoms of disease shall be moved from such auction sale barns except on special permit from the state veterinarian or other authorized agency. The term "immediate slaughter" as used in this act shall be construed to mean that the swine in question will be slaughtered or sold for such purpose within ten days subsequent to date of purchase."

It would seem from the foregoing, that hogs sold or offered for sale in the manner described by your letter must be vaccinated or otherwise treated as provided in the statute, unless they are sold for immediate slaughter.

The sales made in the manner set forth by you are surely "through such auction sale barns" in the respect that it is the sale facilities offered by such establishments that is directly responsible for the culmination of the transaction. The word "through" as used in the statute can hardly be said to refer, in the light of the obvious intent of the legislature, to a physical passage into and out of the structure, for the reason that the physical passage into or out of the building would not be controlling in preventing the spread of hog cholera, and to adopt such a restricted technical and stylistic meaning would be to indict the legislature of being governed by caprice.

The opinion is, then, that hogs sold or offered for sale through the facilities offered by sales barns, etc., must be vaccinated or otherwise treated as provided by law, unless intended for immediate slaughter, regardless of whether or not such hogs are ever actually driven into and out of the building.