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Opinion No. 09-56

Applicability of Tennessee's Scrap Jewelry and Metal Dealers Act of 1980

QUESTION

Do the holding requirement in Tenn. Code Ann. § 38-1-202 and the records and reporting requirements in Tenn. Code Ann. § 38-1-203 apply to bulk purchases of scrap jewelry and precious metals by a precious metals refiner (for refining and resale in bulk as bars, shot, flake) from a metal dealer that has previously complied with all of the provisions of the "Scrap Jewelry and Metal Dealers Act of 1980" (including the holding and records and reporting requirements) with respect to the purchased items?

OPINION

Yes, these provisions of Tennessee's "Scrap Jewelry and Metal Dealers Act of 1980" apply to bulk purchases of scrap jewelry and precious metals by a precious metals refiner from a metal dealer that has previously complied with all of the provisions of the Act.

ANALYSIS

Tenn. Code Ann. § 38-1-201(a) of Tennessee's "Scrap Jewelry and Metal Dealers Act of 1980," as amended, provides:

> *Any person, firm, or corporation purchasing or otherwise dealing in antique, used or scrap jewelry and precious metals, where the purchase is for resale in its original form or as changed by remounting, melting, reforming, remolding or recasting or for resale as scrap or in bulk,* shall be required to register with the chief of police and sheriff of each city and county in which the activity is carried on.

(emphasis added). The only exemption from applicability of the Act is for "any person, firm, or corporation purchasing or otherwise dealing *solely* in coins." Tenn. Code Ann. § 38-1-201(b) (emphasis added). Bulk purchases of scrap jewelry and precious metals by a precious metals refiner for the purpose of refining and resale in bulk as bars, shot, flake appear to be within the scope of the Act. There is no statutory exclusion if the purchase is by a precious metals refiner or from a metal dealer that has previously complied with all of the provisions of the Act.

Tenn. Code Ann. § 38-1-202(a) specifies the holding period before transfer or alteration of purchased scrap jewelry or precious metals.

> It is unlawful for any person or corporation engaging in the activity described in § 38-1-201 to sell, exchange, barter or remove from the place in which such business is conducted, or to change the form of any such items by remounting, melting, cutting up, or otherwise changing the form of any such items for a period of thirty (30) days from the date of purchase.

The only statutory exclusion from the holding period is limited to "persons or corporations engaged in the reclamation of precious metals through the processing of used film or other similar materials . . . ." *Id.* Again there is no statutory exclusion if the purchase is by a precious metals refiner or from a metal dealer that has previously complied with all of the provisions of the Act.

Tenn. Code Ann. § 38-1-203 requires record keeping of all transactions involving the purchase of scrap jewelry or precious metals.

> Every person or corporation dealing in the items described in § 38-1-201 shall keep a log in duplicate and shall enter on the log a clear and accurate description of any items of jewelry or precious metals purchased; the date and amount of money paid for such items; and the name, race, residence and address of the seller. The seller and the purchaser shall sign the log below the description of each transaction. On each day the purchaser shall transact business of the type described within this section, the purchaser shall deliver to the sheriff and the chief of police of each county or municipality in which the business is conducted a copy of the log concerning that day's business, and the copy of the log shall be delivered by twelve o'clock (12:00) noon of the day following the date of the transaction. The book shall be carefully preserved without alteration and shall at all times be open to the inspection of the sheriff of the county and the chief of police or any deputy or police officer of the city or county.

There is no statutory exclusion if the purchase is by a precious metals refiner or from a metal dealer that has previously complied with all of the provisions of the Act. Below the description of each transaction, the precious metals refiner shall sign the log as the purchaser and the metal dealer shall sign the log as the seller.

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