



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 • Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

January 17, 1978

ATTORNEY GENERAL OPINION NO. 78-23

The Honorable Elwill M. Shanahan  
Secretary of State  
2nd Floor - State Capitol Building  
Topeka, Kansas 66612

Re: Corporations--Annual Reports--Disclosure

Synopsis: The required annual report of Michelin Tire Corporation need not contain information in response to said form as prescribed by the Secretary of State for the annual report of said foreign corporation other than as set out herein.

\* \* \*

Dear Secretary Shanahan:

On December 12, 1977, John R. Martin of my staff met with Messrs. Moses and Gilpin of your office, and representatives of Michelin Tire Corporation (MTC), Andrew V. Peters, executive vice president, and an attorney from New York City, concerning the annual reports required of that corporation pursuant to K.S.A. 17-7505. Pursuant to that meeting Mr. Peters has furnished us a letter, dated December 23, 1977, setting forth a written memorandum of that meeting, and representations made by MTC.

That corporation is a privately held New York corporation, and serves as the principal operating company in the United States, representing the Michelin Group in Europe, and is wholly owned by parent companies in that group. As a result of certain warehousing and sales activities in this state, MTC has qualified to do business in the State of Kansas. As a result of that qualification, MTC is required to file annual reports which are called for by the cited statute, and to pay an annual franchise tax.

The Honorable Elwill M. Shanahan  
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January 17, 1978

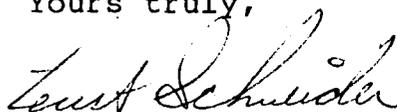
Mr. Peters advises us that because of MTC's position as a manufacturer of a single product, information disclosing its fixed assets, the breakdown of investment between plant and machinery, and changes in the stockholders' equity portion of the balance sheet from year to year are of particular value to its competitors. Such a disclosure was made several years ago, he advises, by a financial publishing service which obtained the data from a public file relating to the annual franchise tax paid by MTC as a foreign corporation doing business in one state. Since that time, the corporation has taken all available legal steps to avoid the filing of such information, he advises, and has succeeded in doing complying with the requirements of all other states without disclosure of sensitive financial information which would compromise confidential data not otherwise available to its competitors.

Mr. Peters has proposed that MTC be permitted to complete the balance sheet information which is required insofar as its concerns total assets, total liabilities, and stockholders' equity, lines 14, 20 and 26. In addition, questions 13 and 14 would be answers in full, and line 12(e) would likewise be completed. This information, I am advised, is sufficient to permit your staff to determine the appropriate franchise tax which is payable by MTC. In addition, as you point out, the pertinent form bears the following instruction:

"Please note that if you disclose any of the actual figures used in computing Item 13 to this office, they will be a matter of public record. The figures are available without your disclosure to this office through the Department of Revenue, or through field audits."

The particular exigent circumstances enumerated by Mr. Peters satisfies me that the responses which are proposed above, are sufficient to provide all the information which is needed for computation of the required annual franchise tax, and that the disclosure of further information is not required under the facts and circumstances set out above.

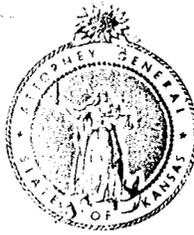
Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: Mr. Andrew V. Peters



STATE OF KANSAS

## Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

**Curt T. Schneider**  
Attorney General

February 24, 1978

The Honorable Elwill M. Shanahan  
Secretary of State  
2nd Floor - State Capitol  
Topeka, Kansas 66612

Dear Secretary Shanahan:

In Opinion No. 78-23, the Attorney General advised that the omission of certain information from the annual report proposed to be filed by the Michelin Tire Corporation was justified by particular exigent circumstances based upon representations by the company, and that the report proposed to be filed pursuant to K.S.A. 17-7505 should be accepted for filing without the information described in that opinion. That opinion was based, as stated, on the belief that the particular and seemingly unique circumstances presented by representatives of the corporation justified that omission.

Since that time, this office has had occasion to reconsider that opinion. K.S.A. 17-7505 does not expressly or impliedly authorize the omission of any information required therein based upon the commercially exigent circumstances of the filing corporation, or upon any extra-statutory considerations of confidentiality of business information. We are persuaded that the referenced opinion erred in engrafting upon the statute exceptions which it does not expressly nor impliedly authorize. Accordingly, I have been authorized and directed by the Attorney General to advise you that that opinion is hereby withdrawn.

Yours truly,

CURT T. SCHNEIDER  
Attorney General

BY:

JOHN R. MARTIN  
First Assistant Attorney General

JRM:kj