

TAXATION: Residential property at 127 East Circle Drive, Jefferson City, Missouri, owned by Missouri Council of Churches, exempt from taxation under Article X, Section 6, of Missouri's Constitution of 1945, and Section 137 (6) RSMo 1949.



April 29, 1957

Honorable Thomas D. Graham
Member, Missouri House of Representatives
512 Central Trust Building
Jefferson City, Missouri

Dear Mr. Graham:

This opinion is in answer to your request reading, in part, as follows:

"I enclose herewith a letter from the Missouri Council of Churches, Mr. A. Greig Ritchie, Executive Director, which I believe is self-explanatory.

"I should like to have an opinion from your office as to whether or not property such as that owned by the Missouri Council of Churches and other church organizations, and used as a parsonage by the executive director and other ministerial employees, is subject to real property taxes under the laws of the State of Missouri; or, whether or not such property comes under Section 137.100, RSMo. 1949, and is exempt."

Essential facts to be considered in this opinion may be briefly stated, as gained from your letter of inquiry, the communication of April 12, 1957 addressed to you by the Executive Director of the Missouri Council of Churches, and from investigations made by this office.

In February, 1952 the Missouri Council of Churches purchased a residential property to be used as a manse at 127 East Circle Drive, Jefferson City, Missouri. In 1955 and 1956 the property was placed on the tax rolls of Cole County, and efforts made to have such tax abated on the ground that the

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property is exempt from taxation have not resulted in such abatement. The Missouri Council of Churches desires to sell the property but the taxes levied and unpaid at this date have forestalled a sale. At no time since acquisition of the property has it been held as commercial property, or been used as income producing property by the Missouri Council of Churches.

Of legal necessity this opinion is directed to the particular facts mentioned herein. In *Midwest Bible and Missionary Institute v. Sestric*, 260 S.W. (2d) 25, 364 Mo. 167, 1.c. 174, we find the following:

"And it is of course true that each tax exemption case is 'peculiarly one which must be decided upon its own facts.' Taxation is the rule. Exemption therefrom is the exception. Claims for exemption are not favored in the law."

The Missouri Council of Churches was incorporated in April, 1947 by pro forma circuit court decree in St. Louis County, Missouri. The following language from Article II of the original Articles of Agreement adopted by the corporation, and now on file in the office of Missouri's Secretary of State, reflect the general purposes and powers of the corporation necessary for consideration in this opinion:

"The purposes and objects of this Association shall be to promote and extend the Christian religion in the State of Missouri by providing an interdenominational agency for cooperation in Christian education, missions, comity, social relations and other Christian activities, and to function as the accredited agency of the International Council of Religious Education; * * * The Association shall have power to acquire and hold property of every kind, * * *."

Purposes and powers of the corporation, as briefly recited above, disclose the special character of the corporation, and the decree of incorporation found that the objects and purposes set out in the original Articles of Agreement brought the incorporators within the framework of Chapter 33, Article 10, R.S.Mo. 1939 (Chapter 352 RSMo 1949) particularly applicable to incorporation of benevolent, religious and educational associations.

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Article 10, Section 6 of the Constitution of Missouri provides:

"Exemptions from taxation.--All property, real and personal, of the state, counties and other political subdivisions, and non-profit cemeteries, shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. All laws exempting from taxation property other than the property enumerated in this article, shall be void."

Section 137.100 RSMo 1949 provides, in part:

"The following subjects shall be exempt from taxation for state, county or local purposes:

* * * * *

"(6) All property, real and personal actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable, and not held for private or corporate profit shall be exempted from taxation for state, city, county, school, and local purposes; provided, however, that the exemption herein granted shall not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom be used wholly for religious, educational or charitable purposes."

The above quoted constitutional and statutory provisions were reviewed by the Missouri Supreme Court as late as July 11,

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1955 in the case of St. Louis Gospel Center v. Prose, 280 S.W. (2d) 827. In such case the Court denied the exemption from taxation because the property involved was occupied by a tenant, Miss Hobbs. In ruling the question the Court spoke as follows at 280 S.W. (2d) 827, l.c. 830:

"The relation which plaintiff and Miss Hobbs bore to each other was that of landlord and tenant, and the small apartment occupied by her to the extent of its area or space, during her tenure, interfered with and interrupted the exclusive use of the property for religious, charitable and educational purposes. Her occupation as a mere tenant in no way furthered, fulfilled, rounded out or dovetailed into the purposes of plaintiff or of Midwest as religious, charitable or educational organizations. The rooms occupied by her as a tenant were availed of by plaintiff as a source of income, or profit. Actually and legally the relationship was purely a commercial one. Because of the nature of her use and occupancy, it could not be reasonably said the building was used exclusively for religious, charitable or educational purposes, and so the property did not come within the purview of the tax-exempting constitutional and statutory provisions, construing them from a strict though reasonable standpoint."

It is the view of this office that the converse of the rule stated and applied in the case of St. Louis Gospel Center v. Prose, cited supra, should be applied to the facts being considered in this opinion touching the residence property at 127 East Circle Drive, Jefferson City, Missouri owned by the Missouri Council of Churches. It must be reasonably concluded that the ownership, use and occupancy of the property for non-commercial use "furthered, fulfilled, rounded out or dovetailed into the purposes" of the Missouri Council of Churches as such language was used in the decision cited above, and such property is exempt from taxation under the constitutional and statutory provisions considered.

CONCLUSION

It is the opinion of this office that the residential

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property at 127 East Circle Drive, Jefferson City, Missouri owned by the Missouri Council of Churches, and not used for commercial purposes, is exempt from taxation under Article X, Section 6, of Missouri's Constitution of 1945, and Section 137 (6) RSMo 1949.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Julian L. O'Malley.

Yours very truly,

John M. Dalton
Attorney General

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