

TAXATION AND REVENUE:

Lands bid in by County Court on foreclosure of school fund mortgage are not subject to taxation while held by the County.

9256 RS 740 1933 7-4

June 30, 1933



Mr. Edward Cusick,
Prosecuting Attorney,
Waynesville, Missouri.

Dear Sir:

We are acknowledging receipt of your letter of June 6, 1933, in which you inquire as follows:

"The County Court of this County has requested me to get your opinion as follows:

Certain School funds were loaned to farmers of this County and deed of trust made on their farm, now it is necessary to foreclose under said deed of trust, and the County Court bid same in.

Is this property (farms) assessable?"

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

"The property, real and personal, of the State, Counties and other municipal corporations, and cemeteries, shall be exempt from taxation."

Section 9743 R. S. No. 1929, provides as follows:

"The following subjects are exempt from taxation: * * * Fourth, lands and other property belonging to any city, county or other municipal corporation in this state, including market houses, town halls and other public structures, with their furniture and equipments and all public squares and lots kept open for health, use or ornament * * *."

Section 9256 R. S. No. 1929, after providing for bidding in of land by County on sale under school fund mortgage, provides:

"And may purchase, take, hold and manage for said County to the use of the township out of the school fund of which such loan was made, or in its own name where such loan has been made out of the general school funds, the property it may acquire at such sale aforesaid. * * *"

June 20, 1933.

In State ex rel McKinney v. Davidson, 286 S. W. 355, it was held that land owned by an individual upon which there was a school fund mortgage was taxable, but that the bond secured by the mortgage was not taxable.

It will be observed from the foregoing, under the Constitution and Statutes, lands and property belonging to Counties are exempt from taxation. Under Section 9256 R. S. Mo. 1929, if the County bids in the land it becomes property of the County and is to be managed for the benefit of the respective school fund. Under the Davidson case above, it was held that the bonds secured by the mortgage were not taxable. If it becomes necessary for the County to foreclose and bid in the farm so that the farm takes the place of the bond, it remains exempt from taxation so long as the land is owned by the County. However, when the beneficial ownership is again transferred to an individual, either by deed or lease, then the property again becomes taxable.

Therefore, the opinion of this Department is that land bid in by the County upon the foreclosure of a school fund mortgage is exempt from taxation and, therefore, is not subject to assessment.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S