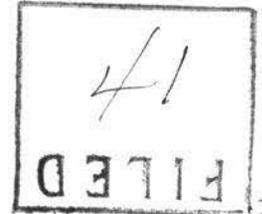


TAXATION AND REVENUE:

✓ Bonds issued by state and municipality are not exempt from taxation.

9743 - 9742 R S Mo 1939

June 30, 1933. ✓



Mr. Lawrence Tolman,
Prosecuting Attorney,
Moberly, Missouri.

Dear Sir:

We are acknowledging receipt of your letter of June 24, 1933, in which you inquire as follows:

"The County Assessor has asked me for an opinion as to whether or not State and Municipal bonds are exempt from assessment and taxation. I have always been under the impression that they were. But in looking into the matter I do not find any statute making such bonds exempt, nor do I find any cases on the question. So in order to be sure that I am right on this proposition I would appreciate an opinion from your department.

Because of the fact that the Assessor is now at work I would like to have this opinion as soon as conveniently possible."

Article 10, section 6 of the Constitution of Missouri provides as follows:

"The property, real and personal, of the State, counties and other municipal corporations, and cemeteries, shall be exempt from taxation. Lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, may be exempted from taxation, when the same are used exclusively for religious worship, for schools, or for purposes purely charitable; also, such property, real or personal, as may be used exclusively for agricultural or horticultural societies: Provided, that such exemptions shall be only by general law."

Article 10, section 7 of the Constitution of Missouri provides as follows:

"All laws exempting property from taxation, other than the property above enumerated, shall be void."

Section 9742 R. S. Mo. 1939, provides as follows:

"For the support of the government of the state, the payment of the public debt, and the advancement of the public interest, taxes shall be levied on all property, real and personal, except as stated in the next section."

Section 9743 R. S. Mo. 1929, provides as follows:

"The following subjects are exempt from taxation: First, all persons belonging to the army of the United States; second, lands and lots, public buildings and structures with their furniture and equipments, belonging to the United States; third, lands and other property belonging to this state; 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; fifth, lands or lots of ground granted by the United States or this state to any county, city or town, village or township, for the purpose of education, until disposed of to individuals by sale or lease; sixth, lots in incorporated cities or towns, or within one mile of the limits of any such city or town, to the extent of one acre, and lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are used exclusively for religious worship, for schools or for purposes purely charitable, shall be exempted from taxation for state, county or local purposes."

Under the foregoing constitutional and statutory provisions taxes must be levied on all property within the territorial jurisdiction of the state, except that expressly enumerated as exempt.

State ex rel. Union Electric Light & Power Co., v. Baker, 293 S. W. 399; 316 Mo. 853.

State ex rel. Globe Democrat v. Gehner, 294 S. W. 1017.

It is apparent, therefore, from the above that bonds issued by the State of Missouri or any municipality thereof are subject to taxation unless they be expressly exempted. Such bonds are no where exempted from taxation either in the Constitution or in the Statutes.

In State ex rel. Tompkins v. Shipman, 234 S. W. 60, it was held that the Legislature could not increase the list of tax exemptions contained in sections 6 and 7 of article 10 of the Constitution.

In Vice v. City of Kirksville, 217 S. W. 77, the court was construing an act which permitted the issuing of bonds by municipalities for waterworks systems and provided that the bonds so issued should be exempt from taxation. The court, however, held that under section 6 of article 10 of our Constitution, such

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bonds could not be exempted from taxation.

In State ex rel. St. Louis County v. Gordon, 188 S. W. 160, the court had for consideration an act authorizing county courts to issue bonds for building of roads, etc. The act also provided that such bonds should be exempt from taxation for any purpose. The court, however, held that such provision was in conflict with sections 6 and 7 of article 10 of the Constitution.

In view of the foregoing, therefore, it is the opinion of this Department that sections 6 and 7 of Article 10 of the Constitution do not exempt from taxation state or municipal bonds. The Legislature has not passed any statute exempting such bonds and if it had, in view of the foregoing cases, it is doubtful whether such exemption would be constitutional.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S