

BEER LAW:

Quantities of beer stored in county is subject to property tax, even though owner is a holder of a beer permit.

October 13, 1933.

Mr. Arch M. Skelton,  
Prosecuting Attorney,  
Lexington, Missouri.

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Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"This office respectfully requests your opinion of the following questions.

Is beer stored in our county subject to a property tax, the same as a stock of goods in any store? Section 13139z10 of the new beer law states that no county or municipality in this state shall impose any tax on the holder of any permit authorized by this article, for the sale of non-intoxicating beer within its borders. Does this section exempt persons storing beer in quantities in ware-houses from the payment of a property tax on said beer?"

Section 13139z10, R. S. Mo. 1929, provides as follows:

"No county or municipality in this state shall impose any tax on the holder of any permit authorized by this article, for the sale of non-intoxicating beer within its borders. No municipal corporation shall increase any occupation tax which it now levies, upon any holder of such permit over the amount of such tax imposed upon merchants and dealers in the same or similar lines of business, and not holding any such permit."

Prior to the passage of the Beer Act, Laws of Missouri, 1933, pages 255-267, every municipal corporation, under the general statutes, authorized to license merchants would have had a right to have exacted a license tax on any person engaged in the business of selling beer, either as a distributor, wholesaler or retailer. The Legislature, under Section 13139z10, has plainly expressed its intention that no county or city shall exact a license tax from any holder of a permit, nor should any such county or city increase any occupation tax upon any holder of such permit over the amount of such tax imposed upon merchants in the same or similar lines of business. By the Act the Legislature has reserved to itself the right to

issue or withhold the permit to sell non-intoxicating beer, and has provided for fees and licenses in connection therewith. It is apparent, however, that all the Legislature sought to do by said Section was to restrict to itself the complete authority in the licensing of people in selling non-intoxicating beer. This tax is by no means a property tax, nor does the Legislature any place in the Act seek to exempt from property tax any tangible property, beer or otherwise, owned by a holder of a beer permit.

Section 6 of Article X 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 and personal, as may be used exclusively for agricultural or horticultural societies: Provided, that such exemptions shall be only by general law."

Section 7 of Article X of the Constitution of Missouri provides as follows:

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

Section 6 above provides what property shall be exempt from taxation, and Section 7 provides that no property other than that enumerated in Section 6 shall be exempted from taxation, and any attempt to exempt any other property should be void. Under the foregoing constitutional provisions an attempt by the Legislature to exempt the tangible property of the holder of a beer permit from taxation would have been unconstitutional.

Section 9742, R. S. Mo. 1929, 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."

Under that Section the Legislature has provided that all personal property shall be subject to taxation except property enumerated in the succeeding section, which makes no exemption in favor of non-intoxicating beer. The Beer Act itself does not exempt from taxation beer stored in your county any more than it exempts trucks or other personal property used by the

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beer dealer as a necessary part of his business in operating under the permit issued to him by the state.

It is therefore our opinion that while the Legislature, under Section 13139z10, did withdraw from the counties and cities the right to impose upon the holder of any non-intoxicating beer permit a license or occupation tax, yet the Legislature did not attempt to exempt such holder from taxation properly assessable against him under the constitution and general laws of this state. We think, therefore, that a holder of a beer permit that stores large quantities of beer in warehouses in your county might be assessed upon the beer so stored, the same as any other personal property owned or held by him.

Very truly yours,



Assistant Attorney General.

APPROVED:

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Attorney General.

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