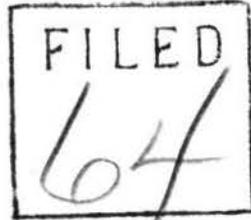


**MORTGAGES:** Mortgages of a Building and Loan Association are not taxable.

April 14, 1938

4-15

Mr. Albert F. Moore,  
Assessor of Perry County,  
Perryville, Missouri.



Dear Sir:

We have your letter of April 11th requesting an official opinion from this department, as follows:

"Please give me your opinion on the law of assessing mortgages owned by the Perry County Savings and Loan Association. Are they assessable or no?"

In compliance with your request, we wish to say that we have ascertained from the office of the Secretary of State that the Perry County Savings and Loan Association is organized and chartered as a building and loan association, and such being the case, we believe your question is answered by the following statutory provision, together with the following two decisions by the Supreme Court of Missouri.

Section 9768, R. S. Mo. 1929, reads as follows:

"All parties holding stock or shares as owners or in trust in any building and loan association in this state, on which no loan has been obtained from such association, shall be required to give a just and true list of the same to the assessor, with the actual cash value of each share on the first day of June in each year, and the tax shall be levied upon said shares, and collected from such holder

or depositor of the same, as taxes on other personal property; and any failure on the part of such owner, holder or depositor of such shares shall subject such holder to the same penalties now provided for failure to give to the assessor a true list of all taxable property, verified by affidavit."

In the case of *Kansas City v. Building and Loan Ass'n.*, 145 Mo. 50, the court construed the above statute as excepting a building and loan association from taxation, the court saying at page 52, as follows:

"The property of building and loan associations is excepted from assessment and taxation by State law; that law providing for the assessment and taxation of such corporations by assessing the shareholders on their shares, and from them collecting the tax."

In the later case of *State ex rel. v. Lesser*, 237 Mo. 1. c. 326, the court said:

"The reason for making exceptions (from property taxation) of banks, insurance companies, steamboat companies and building association is the difficulty in reaching the tangible property in those concerns; the stock is treated as representing the property and taxed in lieu of taxing the property." (The matter in parenthesis ours.)

Hence, we conclude that the mortgages owned by the Perry County Savings and Loan Association are not assessable as such for taxation.

Respectfully submitted,

J. W. BUFFINGTON,  
Assistant Attorney General.

APPROVED:

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J. E. TAYLOR,  
(Acting) Attorney General.

JWB:HR