

TAXATION:
EXEMPTIONS:

In re exemptions of American Royal
Buildings, American Royal Annex and
American Royal Parking Lot.

April 30, 1942

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Mr. George R. Clark
County Assessor
Jackson County
Kansas City, Missouri

FILE
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Dear Sir:

This is in reply to your letter of recent date where-
in you request an opinion from this Department on the ques-
tion of whether or not the real estate upon which the Amer-
ican Royal Building, American Royal Annex and the American
Royal Parking Lot are situated in Jackson County, Missouri
are exempt from taxes.

In the statement of facts which are included with your
request, it appears that a corporation titled "American Royal
Association" is thereby formed under a Pro Forma Decree. The
purposes of this association are set out in paragraph (4)
of the Articles of Agreement, which are as follows:

"This association is formed for the following
purposes: To foster, encourage and promote
progress and improvement in the science of
agriculture and in the breeding and raising
of horses, cattle, swine, live stock, poul-
try and other animals; to foster, encourage,
develop, promote and disseminate education
and information with reference to agricul-
ture and the breeding and raising of horses,
cattle, swine, live stock, poultry and other
animals; to foster, encourage and promote
a greater interest in the breeding and rais-
ing of pure-bred animals, live stock and
poultry; in accordance with the foregoing
purposes and for the furthering thereof, to
promote, foster, encourage, manage, conduct
and operate horse, cattle, swine, animal,
live stock and poultry shows; and to do such
other things as may be necessary, suitable

or proper for the accomplishment of any of the foregoing general purposes, and for the attainment of any of the objects, or the furtherance of any of the purposes hereinbefore set forth either alone or in connection with other corporations, firms or individuals and either as principals or agents, and to do every act or acts, thing or things incidental or appurtenant to or growing out of or connected with any of the aforesaid objects, purposes or powers or any of them, whether general or specific."

The owners of this property claim exemptions by virtue of the provisions of Section 6 of Article 10 of the Constitution of Missouri, which reads 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."

Also by virtue of the provisions of Section 10938 R. S. Mo., 1939, which is as follows:

"The real estate and personal property which may be used exclusively for agricultural or horticultural societies heretofore organized, or which may be hereafter organized in this state, shall be exempted from taxation for state, county, city or other municipal purposes."

In the case of Fitterer v. Crawford, Collector, 157 Mo. 51, 58, the court in stating the rule to be applied in construing the exemption section, said:

"In the construction of laws exempting property from taxation it is a cardinal principle that they must be strictly construed. As a rule all property is liable to taxation, exemption the exception, and it devolves upon the person claiming that any specific property is exempt to show it beyond a reasonable doubt."

This rule, down to the present time, has been constantly applied by the courts in construing exemption sections.

The portion of the exemption section, which is applicable to your question, was before the Supreme Court in Kansas City Exposition Driving Park v. Kansas City, 174 Mo. 425. In that case the court went into the history and reason of this portion of the exemption section. In that case, the court at l. c. 434, said:

"Is the plaintiff an agricultural or horticultural society within the meaning of this constitutional provision, and was this land used exclusively for such a society? The contention of plaintiff is that a business corporation organized as it was under article 8 of chapter 21, Revised Statutes 1879, section 929, for the purpose, among others, of encouraging agricultural and horticultural pursuits and to establish and maintain a race course and promote

athletic and other sports and amusements,' is an agricultural and horticultural society within the meaning of the Constitution.

"In the ascertainment of the meaning of any law, fundamental or statutory, it is legitimate and even necessary to trace the history of the terms used therein in order to gather their significance. Prior to the adoption of the Constitution of 1875 the Legislature was forbidden to pass any law exempting any property, real or personal, from taxation, except such as should 'be used exclusively for public schools, and such as belonged to the United States, to this State, to counties, or to municipal corporations within this State.' (Constitution of 1865, art. 11, sec. 16.)

"As early as 1853 the General Assembly of this State incorporated the Missouri State Agricultural Society. (Act February 24, 1853.) By an act of the Legislature, approved September 13, 1855, that law was repealed, and a new act adopted dividing the State into agricultural districts, and establishing a society for each, and designating the counties that should constitute such district agricultural society. Their powers were defined by the act.

"Later in 1863 the Missouri State Board of Agriculture was created a body corporate and it was made the duty of all agricultural and horticultural societies to make reports to such State board.

"The scheme of promoting county agricultural societies will be found in the General Statutes of 1865, pp. 321 to 324.

These societies were intended to promote agriculture, manufactures and raising stock.

"The county courts were authorized to vote money for premiums and they were adjuncts of the State Board of Agriculture and the presidents of said county societies were ex-officio members of the State Board of Agriculture, and they were required to make reports of their transactions to the State board.

"These county agricultural and horticultural societies were thus provided for in the general statutes of this State when the constitutional convention of 1875 met and organized, and these statutes were continued in our general revision in 1889 (R. S. 1889, pp. 178 to 183, inclusive) and were in full force and effect when the plaintiff corporation was organized.

"Throughout the statutory history of these associations they are styled 'Agricultural' or 'Agricultural and Horticultural Societies.' Recurring now to the act of the Legislature of 1883 (Laws 1883, p. 140; R.S. 1889, sec. 7505) under which this exemption is claimed and without which there could be no exemption, because the proviso of the Constitution is that it could only be granted by a general law, we find that the exemption is granted to agricultural or horticultural societies heretofore organized or which may hereafter be organized in this State.

"These agricultural societies, both State and county, had been favored objects of the State's bounty for many years. Every re-

vision, commencing with 1855 down to the present, contains the law authorizing their formation and government. The purpose of their creation was not private gain but the encouragement of agriculture and horticulture."

The court then refers to Section 4060 R. S. Mo., 1879, which is now Section 10939 R. S. Mo., 1939. The court also said, in the Exposition Driving Park case, supra, that the societies which were exempted under the foregoing section, were not considered corporations and were never classed as corporations. The court in that case, finally held that the exemption section did not apply to the association which sought the exemptions therein and said that "the nature of the exemption which plaintiff seeks is such as to forbid an implied exemption."

The letter written to you by Mr. Borders, Attorney for the petitioner, indicates that if the corporation is formed for agricultural or horticultural society purposes, that that is determinative of the question of whether or not the corporation is exempted. In connection with this, however, we refer to the case of St. Louis Young Men's Christian Association v. Gehner, 47 S. W. (2) 776, paragraphs 2 and 3, wherein the court said:

"Plaintiff was organized by pro forma decree of the circuit court under the statutes governing benevolent, religious, scientific, fraternal, beneficial, educational, and miscellaneous associations. Its purpose is declared in its charter to be 'the improvement of the spiritual, mental, social and physical condition of young men'. It is described by its general secretary as follows: 'Q. Now, isn't it a fact, Mr. Haworth, that your organization could be more accurately described as a character-building organization than as a charitable organization? A. I think that is correct. It could be described

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as a character-building and educational-
building and religious organization.'

"Even so, the purpose and object of
the organization, standing alone, is
not determinative of the question."

We do not think that the suggested plan of operation
by the proposed corporation and the facts submitted, would
be sufficient to authorize the taxing officials to hold that
this property is exempt beyond a reasonable doubt.

CONCLUSION

It is, therefore, the opinion of this department, that
the lands upon which are located the American Royal Building,
the American Royal Annex and the American Royal Parking Lot,
upon the facts submitted, should not be exempted from taxation.

Respectfully submitted

TYRE W. BURTON
Assistant Attorney General

APPROVED:

ROY MCKITTRICK
Attorney General

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