

COUNTY COURT: The county court has jurisdiction to correct taxes extended against exempt property, but no authority to change taxes extended before the property became exempt.

January 15, 1944



1-27
Honorable J. F. Newton
Presiding Judge
County Court of Wright County
Mansfield, Missouri

Dear Sir:

We are in receipt of your letter of January 4th, requesting an opinion from this department. Your letter reads as follows:

"January 5, 1943, a Mr. Wallen sold the first baptist church of Mansfield a residence property to be used as a parsonage, he did not guarantee the payment of the 1943 taxes.

"Now comes the church and asks that the 1943 tax be relieved would the court be within their rights in doing this."

Sec. 6, Article X, Constitution of Missouri, provides:

"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 hori cultural societies: Provided, that such exemptions shall be only by general law."

Section 10937, R. S. Mo., 1939, in so far as is pertinent to this question, reads as follows:

"The following subjects are exempt from taxation; * * * * * 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 distance 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."

Assuming that a parsonage is exempt from taxation and that a tax has been extended against it, then the county court would have authority to correct the error under section 11114, R. S. Mo., 1939.

It appears from your letter though that the tax here had been extended against this property before its use had changed and while it was still owned and used privately. In this event the lien for taxes has attached and the tax would have to be paid, even though the use of the land now makes it exempt. (Cooley on Taxation, Volume 2, paragraph 712, page 1499.)

CONCLUSION

In our opinion the county court would have no authority to disturb taxes extended before the property was used as a

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parsonage, but if the parsonage is exempt from taxation and a tax is extended against it, then the county court may correct the error.

Respectfully submitted,

RALPH C. LASHLY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

RCL:ML