

TAXATION :: Church property liable for real
EXEMPTION OF CHURCH PROPERTY :: estate taxes where lien for taxes
:: accrues prior to transfer of the
:: property to church use.

January 19, 1945



Honorable R. Leroy Miller
Prosecuting Attorney
Trenton, Missouri

Dear Sir:

This will acknowledge your opinion request addressed to the Office of the Attorney General on December 22, 1944, in which you inquire:

"Could you please advise me if, in your opinion, there is any way to collect real estate taxes against property which is occupied by a church, which taxes accrued before the property was diverted into church property?"

The Missouri Constitution, Article X, Section 6, provides in part as follows:

"* * * 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, * * *"

and Section 10937, R.S. Mo. 1939, is to the same effect, providing exemption from taxation of real estate when the same is used exclusively for religious worship.

Real estate occupied by a church is exempt from real estate taxes while it is being used for religious purposes. Your inquiry presents the question as to whether

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real estate taxes which accrued before the property was transferred to church use may be collected against the church property, and we assume that the taxes in question were assessed and the tax levy thereon made prior to the change of the real estate to religious use.

Such real estate used for religious worship is exempt from taxation unless acquired after the accrual of a tax lien upon the property. 61 C.J. Section 560, page 483; Southern Hotel Company et al. vs. County Court of St. Louis County, 62 Mo. 134; People vs. Logan Square Presbyterian Church, 249 Ill. 9, 94 N.E. 155.

Section 10941, R.S. Mo. 1939, authorizes a lien for taxes against real property. However, the State's lien for taxes does not accrue and become a fixed incumbrance until the amount of the tax is determined by an annual assessment of the land and an annual levy of the tax. State ex rel. Martin vs. Childress, 134 S.W. (2d) 136, 345 Mo. 495; McAnally vs. Little River Drainage District, 28 S.W. (2d) 650, 325 Mo. 348.

CONCLUSION.

It is, therefore, the opinion of this department that real estate taxes against property occupied as a church which were assessed against the property, and the levy for taxes made, and the lien for taxes thereby having accrued for any year prior to the transfer of the real estate to church use, may be collected against the church property unless barred by limitation of law.

Respectfully submitted,

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APPROVED:

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