

TAXATION AND REVENUE: Liability for tax of property exempt therefrom on date of assessment.

March 11, 1946



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Hon. Clarence Evans, Chairman  
State Tax Commission  
Jefferson City, Missouri

Dear Sir:

Reference is made to your letter of recent date, requesting an opinion of this office, and reading as follows:

"I would be pleased to have your opinion as to the validity of the assessment on the following statement of facts:

"On November 24, 1944, the Baptist Church transferred a residence in Paris, Missouri, to a private owner. This property, being in the name of the Church, had been held exempt from taxation during the ownership of the Church. The Monroe County Board of Equalization placed the property on the assessment books of the county in May, 1945, as of June 1, 1944, for taxes of 1945, but later cancelled the assessment on the advice of the Prosecuting Attorney, who held it was 'an erroneous assessment'. The city assessor of Paris copied the assessment as made by the county, but has not cancelled it as the county has done.

"This Commission has advised the city that their assessment is erroneous, but they do not seem entirely satisfied and have asked me to get the opinion of the Attorney General."

It is a primary rule that taxes cannot be lawfully imposed in the absence of a valid assessment. We quote from State ex rel. v. Kansas City Power & Light Co., 145 S. W. (2d) 116, l. c. 120:

"It is conceded that under our system of taxation there can be no lawful collection of a tax until there is a lawful assessment and there can be no lawful assessment except in the manner prescribed by law and of property designated by law for that purpose. See State ex rel. Union Electric Light & Power Co. v. Baker et al., 316 Mo. 853, 293 S. W. 399, (cited by both sides.) This principle is well settled and needs no further citation of authorities."

Also, to the same effect, see State ex rel. v. Smith, 111 S. W. (2d) 513, and State ex rel. v. Lesser, 141 S. W. 888.

We think it then becomes pertinent to determine whether or not a valid assessment might have been made of the property as of June 1, 1944. We direct your attention to Section 10940, R. S. Mo. 1939, reading as follows:

"Every person owning or holding property on the first day of June, including all such property purchased on that day, shall be liable for taxes thereon for the ensuing year."

Also, to a portion of Section 10950, R. S. Mo. 1939, relating to the contents of assessment lists, which reads as follows:

" \* \* \* Such lists shall contain: first, a list of all the real estate and its value, to be listed and assessed on the first of June, 1937, and every year thereafter, anything in this or any other section to the contrary notwithstanding; \* \* \* "

From these two sections, it becomes apparent that June first of any calendar year is the date upon which assessments of real property are to be made.

We do not find any cases reported from the appellate courts directly holding that the transfer of exempt real property subsequent to the date upon which such real property is to be assessed has the effect of subjecting the property to taxation for the current year, but, by analogy, we do believe that such deduction must necessarily be drawn. In this regard, we direct your attention to a portion of Section 10941, R. S. Mo. 1939, which reads as follows:

"Government lands entered or located on prior to the first day of June shall be taxable for that year and every year thereafter; school and swamp lands and lots shall become taxable whenever the county sells, conveys or agrees to convey its title \* \* \* "

This statute, to us, indicates an intent on the part of the Legislature that property exempt from taxation on June first of any year shall not be subjected to taxation until the year following.

CONCLUSION

In the premises, we are of the opinion that if such real property was exempt from taxation on June 1, 1944, neither the county assessor nor the county board of equalization had authority to add such real property to the assessment lists and tax rolls, under the conditions set out in your letter.

Respectfully submitted,

WILL F. BERRY, Jr.  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

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