

SCHOOLS:
TAXATION:

Property owned by state college
exempt from taxation.

June 3, 1947



Mr. G. W. Diemer
President
Central Missouri State College
Warrensburg, Missouri

Dear Mr. Diemer:

This will acknowledge receipt of your letter of recent date in which you submit the following matter for our opinion:

"I am writing you at the request of the Board of Regents of Central Missouri State College to know whether or not some houses which we purchased last summer are subject to taxation. We purchased four houses directly across from the college to provide a site for a men's dormitory. Inasmuch as we could not immediately erect the dormitory, we have been using the houses to take care of veterans and two faculty families. In three of the houses, we have been housing some forty veterans. In one of the three houses, a member of the faculty and his wife have the lower floor and they are in charge of the dormitory unit on the second floor. The fourth house is a bungalow that we have rented to our vocational home economics teacher and her father. All four of these houses are being maintained by the college to take care of housing emergency needs and any profit that might accrue from them goes back into the improvement of the dormitory and housing program.

In addition to the four houses mentioned above, we purchased a large house as a men's dormitory and have been housing twenty or twenty-two men in the house. This house will probably be maintained permanently as a college dormitory unit.

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In an opinion handed down by your predecessor, our largest dormitory, Laura J. Yeater Hall for Women, was defined as a part of the educational program of the college and not subject to taxation. I am assuming that the five houses in question are also a part of the educational program of the college and hence not subject to taxation. However, the Board of Regents of the College and the County Assessor will greatly appreciate an opinion from you."

Article X, Section 6, of the Constitution of 1945 provides what property may be exempt from taxes. It reads as follows:

"All property, real and personal, of the state, counties and other political subdivisions, and non-profit cemeteries, shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies may be exempted from taxation by general law. All laws exempting from taxation property other than the property enumerated in this article, shall be void."

It will be noted that the above constitutional provision expressly exempts said property from taxation and also authorizes the Legislature to exempt certain other property from taxation. The property mentioned in the first clause of said constitutional provision is placed beyond the reach of taxing authority. If, therefore, the property you describe in your letter comes within the property mentioned in said first clause of said constitutional provision, it is exempt from taxation by virtue of the constitutional provision. Pursuant to said constitutional provision the Legislature in 1945 passed an act defining what property should be exempt from taxation. Said act (H.C.S.H.B. Mo. 471, Section 5) Laws 1945, P. 1799, reads in part as follows:

"The following subjects shall be exempt from taxation for state, county or local purposes: First, lands and other property belonging to this state; * * *"

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We must, therefore, determine whether the property mentioned in your letter is property belonging to the State of Missouri.

As stated in your letter, the houses were purchased by the Board of Regents of Central Missouri State College.

Section 10751, R.S. Mo. 1939, reads in part as follows:

"For the purpose of establishing state teachers colleges the state is divided into five districts as follows: * * *"

Section 10753, R.S. Mo. 1939, reads in part as follows:

"The boards of regents now constituted and appointed for the first, second, third, fourth and fifth district normal schools and for Lincoln institute are hereby created boards of regents for the first, second, third, fourth and fifth state teachers colleges and for Lincoln university with full succession to property and powers. Said boards shall be known respectively as ' * * * '; and by their respective names they shall have perpetual succession, with power to sue and be sued, complain and defend in all courts, to take, purchase, and hold real estate, and sell and convey or otherwise dispose of the same, and to make and use a common seal and to alter the same."

It will be seen by the foregoing statutes that the Central Missouri State College is a state institution and that the Board of Regents is authorized to acquire real estate for the use of said college. The money with which said college is run and its property acquired is money appropriated by the Legislature out of state funds. There would seem to be no question, therefore, but that the real estate acquired by the college is real estate belonging to the State of Missouri. In *State ex rel. v. Board of Regents etc.*, 305 Mo. 57, 264 S.W. 698, the Supreme Court was considering funds which were realized from collection of insurance policies on buildings owned by a similar college. The question in that case was whether the Board of Regents was required to turn into the State Treasury the proceeds of such insurance policies. In discussing that question the Court said, 264 S.W., 1.c. 700:

"In addition, for what reason it is profitless to discuss, no express power was conferred upon the board to protect the state's property from loss occasioned by fire or other destructive forces."

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Later in the opinion, the Court said, 264 S.W., 1.c. 701:

"The result of the granting of this writ will be to take money out of one of the state's hands and put it in another, which other must remain tightly closed until opened by a legislative sesame."

The Court clearly recognized that the property of the college was state property and that the Board of Regents was the agency of the state in charge of said property.

We believe there is no question, therefore, but that the buildings which you mentioned in your letter belong to the State of Missouri and, therefore, come within the first class of property which is exempt from taxation by Article X, Section 6 of the Constitution as well as by the act of 1945.

CONCLUSION

It is, therefore, the opinion of this office that real estate purchased by the Board of Regents of Central Missouri State College for use in connection with the college is exempt from taxation.

Yours very truly,

Harry H. Kay
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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