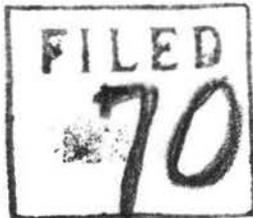


TAXATION:
EXEMPTION OF HOUSE-
HOLD GOODS:



Sec. 137.120, RSMo 1949, providing that an assessment list shall contain a statement of each piano, other musical instruments, radios, clocks, watches, chains and appendages, sewing machines, washing machines, refrigerators, gold and silver plates, jewelry, household and kitchen furniture of person assessed, if repealed will not thereby exempt such personal property from taxation. All laws attempting to exempt such personal property from taxation not owned by this state, any county or other political subdivision or nonprofit cemeteries, and held for profit and is not used exclusively for religious worship, schools and colleges, for purely charitable or for agricultural and horticultural societies, are in violation of Art. X, Sec. 6, Const. of Mo., and such laws are void.

October 22, 1956

Honorable Robert Pentland
Senator, First District
1127 Pine Street
St. Louis, Missouri

Dear Sir:

This is to acknowledge receipt of your recent request for our legal opinion, which reads as follows:

"I would appreciate obtaining an opinion, as soon as possible, as to the legal steps necessary for the repeal of the household tax in the State of Missouri.

"There is some urgency in obtaining such an opinion, and I would be grateful for anything you can do to facilitate this matter."

Upon our request, you gave your explanation of the term "household tax" as used in the opinion request:

"The 'household tax' to which I refer is that portion of the personal property tax which deals with furniture, jewelry, etc.

"Section 137.120, subsection (4) under Property List-Contents, lists such items as are included in the household tax, as it is popularly called.

"The legal opinion which we desire is this: What steps would be necessary to repeal this subsection (4), so as to remove it from the taxable items.

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"Must this be done through a referendum vote, or can it be repealed through an amendment offered on the floor of the State House or Senate?"

Subsection 4, Sec. 137.120, RSMo 1949, is referred to in your inquiry and said subsection is as follows:

"(4) A statement of household property, including the number of pianos and other musical instruments, radios, clocks, watches, chains and appendages, sewing machines, washing machines, refrigerators, gold and silver plates, jewelry, household and kitchen furniture and the value thereof."

Sec. 137.075, RSMo 1949, provides what property shall be liable to taxes and reads as follows:

"Every person owning or holding real property or tangible personal property on the first day of January including all such property purchased on that day, shall be liable for taxes thereon during the same calendar year."

Art. X, Sec. 6, Constitution of Missouri, 1945, exempts property from taxes under certain conditions and reads as follows:

"All property, real and personal, of the state, counties and other political subdivisions, and nonprofit 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 is believed that if this subsection were repealed it would not have the effect of repealing a law making such tangible personal property liable for taxes, as the subsection does not make such property liable for taxes and only has reference to the contents of the tax assessment blank. Sec. 137.075, supra, is that portion of

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the tax laws of Missouri which makes all real and tangible personal property liable for taxation, and as long as this section is in effect, tangible personal property of every owner of the kind described in subsection 4, Sec. 137.120, supra, is liable for taxation, except that property of certain owners, or when it is used exclusively for the purposes mentioned in Art. X, Sec. 6 of the Constitution, supra.

Section 137.100, RSMo 1949, implements the constitutional provisions and reads as follows:

"The following subjects shall be exempt from taxation for state, county or local purposes:

(1) Lands and other property belonging to this state;

(2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments and on public squares and lots kept open for health, use or ornament;

(3) Lands or lots of ground granted by the United States or this state to any county, city or town, village or township, for the purpose of education, until disposed of to individuals by sale or lease;

(4) Nonprofit cemeteries;

(5) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies heretofore organized, or which may be hereafter organized in this state;

(6) All property, real and personal actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable, and not held for private or corporate profit shall be exempted from taxation for state, city, county, school, and local purposes; provided, however, that the exemption herein granted shall not include real property not actually

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used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom be used wholly for religious, educational or charitable purposes."

In event Sec. 137.100, supra, were amended by the General Assembly to grant exemptions from tax liabilities on all tangible personal property named in subsection 4, Sec. 137.120, supra, when such property was not owned or used exclusively for the purposes mentioned in Art. X, Sec. 6 of the Constitution, such a law would be void and in violation of said constitutional provision which expressly provides:

" * * * All laws exempting from taxation property other than the property enumerated in this article, shall be void."

CONCLUSION

It is, therefore, the opinion of this department that subsection 4, Sec. 137.120, RSMo 1949, providing that an assessment list shall contain a statement of each piano, other musical instruments, radios, clocks, watches, chains and appendages, sewing machines, washing machines, refrigerators, gold and silver plates, jewelry, household and kitchen furniture (of the person assessed) if repealed will not have the effect of exempting the personal property named therein from taxes. Any laws attempting to exempt any such personal property from taxes, when not owned by the state, any county or other political subdivision or nonprofit cemeteries, which is not used exclusively for religious worship, schools and colleges, for purely charitable purposes, or for agricultural or horticultural societies, are in violation of Art. X, Sec. 6, Constitution of Missouri, and such laws are void.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Paul N. Chitwood.

Yours very truly,

JOHN M. DALTON
Attorney General

PNC:hw;ml