

OPINION REQUEST NO. 199 ANSWERED BY LETTER

June 12, 1963



Honorable Herman G. Kidd
Representative, Randolph County
Missouri Legislature
Jefferson City, Missouri

Dear Mr. Kidd:

In your request you raise the question of whether the county court of Randolph County has authority to issue an order striking from the assessor's book the current year's taxes or taxes for prior years, under the procedure and authority of Section 137.270, RSMo 1949, where the real estate assessed is owned by a charitable institution and actually and regularly used exclusively for purposes purely charitable and not held for private or corporate profit.

Under the facts stated, it is presumed that the property involved is exempt from taxes under Section 137.100 RSMo 1949 and Art. X, Section 6, Constitution of Missouri, but has been erroneously assessed for taxes. In an opinion dated February 12, 1959, this office held that the charter and by-laws of the Community Memorial Hospital would be consistent with its operation as a tax-exempt charitable institution if, as a matter of fact, the operation of such hospital was such as to entitle it to be considered a charitable institution. We assume that the same institution and charter are involved in the instant request and we are enclosing a copy of that opinion for your convenience.

In an opinion dated January 15, 1944, this office held that the county court has jurisdiction to correct taxes extended against exempt property, but no authority to change taxes extended before the property became exempt. We are enclosing a copy of this opinion since it appears to bear directly on the question involved.

The only remaining question, then, is whether Section 137.270 RSMo 1949 authorizes the county court to correct an

Honorable Herman G. Kidd - 2

assessment under the circumstances herein involved. In other words, do the circumstances herein involved constitute an erroneous assessment under the above cited statute? An opinion issued by this office on August 12, 1946, carefully analyzes the term "erroneous assessment" and indicates that this term has reference to an assessment that deviates from the law. This opinion indicates that the term "erroneous assessment" is sufficiently broad to authorize a correction by the county court where exempt property has been assessed by mistake. We are enclosing a copy of this opinion.

In conclusion, we believe that the three above-mentioned opinions previously issued by this office are in substance correct and that if the hospital is properly tax-exempt under Section 137.100 RSMo 1949, and Article X, Section 6, Constitution of Missouri, then the county court would have jurisdiction to strike from the assessor's book an assessment made as a result of error or mistake.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

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